



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-सा.-03102022-239318
CG-DL-W-03102022-239318

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 38] नई दिल्ली, सितम्बर 18—सितम्बर 24, 2022, शनिवार/भाद्र 27—आश्विन 2, 1944
No. 38] NEW DELHI, SEPTEMBER 18—SEPTEMBER 24, 2022, SATURDAY/BHADRA 27—ASVINA 2, 1944

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विदेश मंत्रालय

(सी.पी.वी.)

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 856.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद्वारा, सरकार भारत के राजदूतवास द हेग में संदीप तंवर, वैक्तिक सहायक को दिनांक 19 सितम्बर, 2022 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी. 4330/01/2022 (38)]

एस.आर.एच. फहमी, उप सचिव (कांसुलर)

MINISTRY OF EXTERNAL AFFAIRS
(CPV Division)

New Delhi, the 19th September, 2022

S.O. 856.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Sandeep Panwar, Personal Assistant as Assistant Consular Officer in the Embassy of India, The Hague to perform the consular services as Assistant Consular Officer with effect from September 19, 2022.

[F. No.T.4330/01/2022 (38)]

S.R.H FAHMI, Dy. Secy. (Consular)

नई दिल्ली, 22 सितम्बर, 2022

का.आ. 857.—राजनयिक और कंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, सरकार भारत के राजदूतवास बगदाद में देवेंद्र सिंह बिष्ट, सहायक अनुभाग अधिकारी को दिनांक 22 सितम्बर, 2022 से सहायक कंसुलर अधिकारी के तौर पर कंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा. सं. टी.4330/01/2022 (39)]

एस.आर.एच. फहमी, उप सचिव (कंसुलर)

New Delhi, the 22nd September, 2022

S.O. 857.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Devendra Singh Bisht, Assistant Section Officer as Assistant Consular Officer in the Embassy of India, Baghdad to perform the consular services as Assistant Consular Officer with effect from September 22, 2022.

[F. No.T.4330/01/2022 (39)]

S.R.H FAHMI, Dy. Secy. (Consular)

कोयला मंत्रालय

नई दिल्ली, 20 सितम्बर, 2022

का.आ. 858.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची (जिसे इसमें इसके पश्चात् उक्त अनुसूची कहा गया है) में उल्लिखित भूमि में (जिसे इसमें इसके पश्चात् उक्त अनुसूची कहा गया है) कोयला अभिप्राप्त किए जाने की संभावना है।

इस अधिसूचना के अधीन आने वाले रेखांक संख्या एमसीएल/जीएम(एचए)/एलएण्डआर-1/2022/351, तारीख 15 जून, 2022 का निरीक्षण, निदेशक (कार्मिक), महानदी कोलफील्ड्स लिमिटेड, जागृति विहार, बुर्ला, जिला संबलपुर - 768020, ओडिशा के कार्यालय में, या मुख्य महाप्रबंधक (खोज प्रभाग), सेंट्रल माइन प्लानिंग एण्ड डिजाइन इन्स्टीच्यूट लिमिटेड, गोंदवाना प्लेस, कांके रोड, रांची, झारखंड के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700001 के कार्यालय में या जिला कलेक्टर, जिला अंगुल, ओडिशा के कार्यालय में किया जा सकता है।

अतः अब केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है ;

उक्त अनुसूची में उल्लिखित भूमि में हितबद्ध कोई व्यक्ति --

- (i) उक्त अधिनियम की धारा 4 की उपधारा (3) के अधीन की गयी किसी कार्यवाही से हुई या होने वाली संभावित किसी क्षति के लिए अधिनियम की धारा 6 के अधीन प्रतिकर का दावा कर सकेगा, अथवा
- (ii) उक्त अधिनियम की धारा (13) की उपधारा (1) के अधीन पूर्वक्षण अनुज्ञप्तियों के प्रभावहीन होने के संबंध में या उक्त अधिनियम की धारा 13 की उपधारा (4) के अधीन खनन पट्टे प्रभावहीन होने के लिए प्रतिकर का दावा कर सकेगा और उसे उक्त अधिनियम की धारा 13 की उप-धारा की उपधारा (1) के खंड (i) से खंड (iv) में विनिर्दिष्ट

मदों की बाबत उपगत व्यय को उपदर्शित करने के लिए पूर्वोक्त भूमि से संबंधित सभी मानचित्रों, चाटों और अन्य दस्तावेजों को परिदत्त कर सकेगा,

राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से नब्बे दिन के भीतर, निदेशक (कार्मिक), महानदी कोलफील्ड्स लिमिटेड, जागृति विहार, बुर्ला, संबलपुर -768020, ओडिशा को भेज सकेगा।

अनुसूची

बलभद्र ओपनकास्ट परियोजना

बलभद्र कोयला ब्लॉक,

बलभद्र उत्तर विस्तार कोयला ब्लॉक,

बलभद्र पश्चिम विस्तार कोयला ब्लॉक

जिला अंगुल, ओडिशा

[रेखांक संख्या एमसीएल/जीएम(एचए)/एलएण्डआर-I/2022/351, तारीख 15 जून, 2022]

क्रम सं.	ग्राम का नाम	थाना	तहसील	जिला	क्षेत्र एकड़ में (लगभग)	टिप्पणी
1.	कुमुंडा	कनिहा	तालचेर	अंगुल	1111.97	भाग
2.	चित्तलपुर	कनिहा	तालचेर	अंगुल	532.52	पूर्ण
3.	पाराबेड़ा	कनिहा	तालचेर	अंगुल	138.88	पूर्ण
4.	मरदाहरिहरपुर	कनिहा	तालचेर	अंगुल	644.81	पूर्ण
5.	बनबासपुर	कोलियरी	तालचेर	अंगुल	192.93	भाग
6.	बड़ाहार	कनिहा	कनिहा	अंगुल	158.59	भाग
7.	बड़काठिया संरक्षित वन	कनिहा	कनिहा	अंगुल	1004.64	भाग
8.	जॉयपुर संरक्षित वन	छेंडीपदा	छेंडीपदा	अंगुल	525.09	भाग
जोड़ : 1744.00 हेक्टेयर (लगभग) या 4309.43 एकड़ (लगभग)						

सीमा वर्णन :

क-ख-ग : यह रेखा जॉयपुर संरक्षित वन में बिंदु 'क' से शुरू होती है और बड़काठिया संरक्षित वन में बिंदु 'ख' के माध्यम से पूर्व में सिंगदा नाला पर बिंदु 'ग' तक जाती है जोकि गांव बड़ाहार की पूर्वी सीमा पर है।

ग-घ-ड. : यह रेखा बिंदु 'ग' से शुरू होती है और सिंगदा नाला के साथ बनबासपुर के माध्यम से बिन्दु 'घ' से होते हुए आगे बढ़ती है, फिर गांव पाराबेड़ा की पूर्वी और दक्षिणी सीमाओं के साथ बढ़ते हुए, फिर गांव कुमुंडा की दक्षिणी सीमा से होते हुए बिंदु 'ड.' तक जाती है।

ड.-च-क : यह रेखा बिंदु 'ड.' से शुरू होती है और कुमुंडा गाँव के माध्यम से बढ़ते हुए, जॉयपुर संरक्षित वन में बिंदु 'च' से होते हुए बिंदु 'क' पर मिलती है।

[फा. सं. 43015/11/2022-एलएण्डआईआर]

राम शिरोमणि सरोज, निदेशक

MINISTRY OF COAL

New Delhi, the 20th September, 2022

S.O. 858.—Whereas, it appears to the Central Government that coal is likely to be obtained from the land in the locality (hereinafter referred to as the land) described in the Schedule (hereinafter referred to as the said schedule) annexed hereto.

And, whereas, the plan bearing number MCL/GM(HA)/L&R-I/2022/351, dated the 15th June, 2022 containing details of the land described in the said Schedule may be inspected at the office of the Director

(Personnel), Mahanadi Coalfields Limited, Jagruti Vihar, Burla, District Sambalpur -768020, Odisha or Chief General Manager (Exploration Division), Central Mine Planning and Design Institute Limited, Gondwana Place, Kanke Road, Ranchi, Jharkhand or at the office of the Coal Controller, 1, Council House Street, Kolkata-700001 or at the office of the District Collector, District Angul, Odisha.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal from the land described in the said Schedule.

Any person interested in the land described in the said Schedule may--

- (i) claim compensation under section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section(3) of section 4 thereof; or
- (ii) claim compensation under sub-section(1) of section 13 of the said Act in respect of prospecting licenses ceasing to have effect, or under sub-section(4) of section 13 of the said Act for mining lease ceasing to have effect, and deliver all maps, charts and other documents relating to the land to show the expenditure incurred in respect of items specified in clauses(i) to (iv) of sub-section (1) of section 13 of the said Act,

to the office of the Director (Personnel), Mahanadi Coalfields Limited, Jagruti Vihar, Burla, District Sambalpur - 768020, Odisha within a period of ninety days from the date of publication of this notification in the official Gazette.

SCHEDULE

BALABHADRA OPENCAST PROJECT

BALABHADRA COAL BLOCK,

BALABHADRA NORTH EXTENSION COAL BLOCK,

BALABHADRA WEST EXTENSION COAL BLOCK.

DISTRICT ANGUL, STATE ODISHA.

[Plan bearing number MCL/GM(HA)/L&R-I/2022/351, dated the 15th June, 2022]

Sl. No.	Name of village	Thana	Tahasil	District	Area in acres (approximately)	Remarks
1.	Kumunda	Kaniha	Talcher	Angul	1111.97	PART
2.	Chitalpur	Kaniha	Talcher	Angul	532.52	FULL
3.	Parabeda	Kaniha	Talcher	Angul	138.88	FULL
4.	Maradahariharpur	Kaniha	Talcher	Angul	644.81	FULL
5.	Banabaspur	Colliery	Talcher	Angul	192.93	PART
6.	Badahar	Kaniha	Kaniha	Angul	158.59	PART
7.	Badakathia Reserve Forest	Kaniha	Kaniha	Angul	1004.64	PART
8.	Jaypur Reserve Forest	Chhendipada	Chhendipada	Angul	525.09	PART
Total:						1744.00 hectares (approximately) or 4309.43 acres (approximately)

Boundary Description:

A-B-C: The line starts from Point 'A' in Jaypur Reserve Forest and proceeds east through Point 'B' in Badakathia Reserve Forest upto Point 'C' on Singada Nalla which is the eastern boundary of village Badahar.

C-D-E: The line starts from Point 'C' and proceeds along Singada Nalla through Point 'D' in village Banabaspur, then along eastern and southern boundaries of village Parabeda, along southern boundary of village Kumunda upto Point 'E'.

E-F-A: The line starts from Point 'E' and proceeds through village Kumunda, through Point 'F' in Jaypur Reserve Forest to meet at Point 'A'.

[F. No. 43015/11/2022-LA&IR]

RAM SHIROMANI SAROJ, Director

नई दिल्ली, 22 सितम्बर, 2022

का.आ. 859.—केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे दी गई अनुसूची के स्तंभ (2) में विनिर्दिष्ट अधिकारियों को, उक्त अधिनियम के प्रयोजनों के लिए और उक्त अनुसूची के स्तंभ (3), विनिर्दिष्ट मेसर्स एनएमडीसी लिमिटेड, रजिस्ट्रीकृत कार्यालय और मुख्यालय, 10-3-311/ए, खनिज भवन, कैसल हिल्स, मासाब टैंक, हैदराबाद-500028, तेलंगाना और स्थल कार्यालय की अधिकारिता के भीतर आने वाले स्तंभ (5) में विनिर्दिष्ट कार्यों के संबंध में, उसके स्तंभ (4) में की तत्स्थानी प्रविष्टि में उक्त सक्षम प्राधिकारियों के सामने यथाविनिर्दिष्ट धाराओं के उपबंधों के लिए सक्षम प्राधिकारी नियुक्ति करती है:-

अनुसूची

क्रम संख्या	सक्षम प्राधिकारी के रूप में नियुक्त व्यक्ति का पदनाम	शासकीय पता	अधिनियम की धारा	सक्षम प्राधिकारी के कार्य
(1)	(2)	(3)	(4)	(5)
1.	1. कार्यकारी निदेशक 2. मुख्य महाप्रबंधक 3. महाप्रबंधक 4. उप महाप्रबंधक 5. सहायक महाप्रबंधक 6. वरिष्ठ प्रबंधक 7. प्रबंधक	मेसर्स एनएमडीसी लिमिटेड, रजिस्ट्रीकृत कार्यालय और मुख्यालय 10-3-11/ए, खनिज भवन, कैसल हिल्स, मासाब टैंक, हैदराबाद, -500028, तेलंगाना और स्थल कार्यालय- एनएमडीसी लिमिटेड, दूसरा तल, जेएसएफसी भवन, रांची, जिला रांची, राज्य- झारखंड.	धारा 4 की उप-धारा (3)	(क) पूर्वक्षेप कोयला के लिए भूमि में प्रवेश और सर्वेक्षण करना; (ख) उप मृदा में खोदना या वेधन करना; (ग) भूमि में कोयला के पूर्वक्षेप के लिए सभी आवश्यक कार्य किया जाना; (घ) भूमि की सीमाएं चिह्नित करना जिनमें पूर्वक्षेप के लिए प्रस्तावित किया जाना है; (ङ.) ऐसी सीमाओं और पंक्ति को चिह्नित करने के लिए चिन्हों को लगाना; (च) जहां सर्वेक्षण पूरा नहीं किया जा सकता है और सीमाएं तथा पंक्ति चिह्नित किए गए हैं, वहां किसी खड़ी फसल,

				बाड़ या जंगल के किसी भाग को कम और साफ करना।
2.	1. कार्यकारी निदेशक 2. मुख्य महाप्रबंधक 3. महाप्रबंधक 4. उप महाप्रबंधक 5. सहायक महाप्रबंधक 6. वरिष्ठ प्रबंधक 7. प्रबंधक	मेसर्स एनएमडीसी लिमिटेड, रजिस्ट्रीकृत कार्यालय और मुख्यालय 10-3-11/ए, खनिज भवन, कैसल हिल्स, मासाब टैंक, हैदराबाद, -500028, तेलंगाना और स्थल कार्यालय- एनएमडीसी लिमिटेड, दूसरा तल, जेएसएफसी भवन, रांची, जिला रांची, राज्य- झारखंड.	धारा 6.	कारित होने वाली संभाव्य क्षति की राशि पर प्रतिकर का संदाय और केंद्रीय सरकार को विवाद निर्दिष्ट करना।
3.	कोयला नियंत्रक	कोयला नियंत्रक का कार्यालय, 1, काउंसिल हाउस स्ट्रीट, कोलकाता - 700 001.	धारा 8 की उप-धारा (2).	अर्जन के विरुद्ध आक्षेपों की सुनवाई और केंद्रीय सरकार को रिपोर्ट प्रस्तुत किया जाना।
4.	1. कार्यकारी निदेशक 2. मुख्य महाप्रबंधक 3. महाप्रबंधक 4. उप महाप्रबंधक 5. सहायक महाप्रबंधक 6. वरिष्ठ प्रबंधक 7. प्रबंधक	मेसर्स एनएमडीसी लिमिटेड, रजिस्ट्रीकृत कार्यालय और मुख्यालय 10-3-11/ए, खनिज भवन, कैसल हिल्स, मासाब टैंक, हैदराबाद, -500028, तेलंगाना और स्थल कार्यालय- एनएमडीसी लिमिटेड, दूसरा तल, जेएसएफसी भवन, रांची, जिला रांची, राज्य- झारखंड.	धारा 12. धारा 13 की उपधारा (5) और 5 (क). धारा 13 की उप-धारा (6). धारा 14 की उप-धारा (1).	व्यक्तियों को भूमि का कब्जा अभ्यर्पित करने और उसका कब्जा लेने के लिए नोटिस। भूमि तथा पुनर्वास एवं पुनर्स्थापना के प्रतिकर का अवधारण। क्षति के लिए प्रतिकर का संदाय जिसका अधिनियम में कहीं भी उपबंध नहीं किया गया है। करार द्वारा नियत प्रतिकर का संदाय।

			धारा 14 की उप-धारा(4).	प्रतिकर के संबंध में अधिकरण के समक्ष कथन।
			धारा 16.	अधिकरण के निर्णय पर ब्याज क संदाय।
			धारा 17.	प्रतिकर का संदाय।
			धारा 19.	केंद्रीय सरकार द्वारा प्रत्यायोजित शक्तियों और कर्तव्यों का पालन करना।
			धारा 20 की उप-धारा(3).	केंद्रीय सरकार द्वारा अपील की सुनवाई करना और अपने आदेश का निष्कर्ष देना।
			धारा 21.	जानकारी प्राप्त करने की शक्ति।
5.	1. कार्यकारी निदेशक 2. मुख्य महाप्रबंधक 3. महाप्रबंधक 4. उप महाप्रबंधक 5. सहायक महाप्रबंधक 6. वरिष्ठ प्रबंधक 7. प्रबंधक	मेसर्स एनएमडीसी लिमिटेड, रजिस्ट्रीकृत कार्यालय और मुख्यालय 10-3-11/ए, खनिज भवन, कैसल हिल्स, मासाब टैंक, हैदराबाद, -500028, तेलंगाना और स्थल कार्यालय- एनएमडीसी लिमिटेड, दूसरा तल, जेएसएफसी भवन, रांची, जिला रांची, राज्य- झारखंड.	धारा 22.	किसी भी संपत्ति में प्रवेश करने और निरीक्षण करने की शक्ति।

[फा. सं. 43015/15/2022-एलएण्डआईआर]

राम शिरोमणि सरोज, निदेशक

New Delhi, the 22nd September, 2022

S.O. 859.—In exercise of the powers conferred by section 3 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby appoints the officers specified in column (2) of the Schedule below to be competent authorities for the purposes of the said Act and for the provisions of sections as specified against the said competent authorities in the corresponding entry in column (4) thereof, in respect of the functions specified in column (5) falling within the jurisdiction of M/s NMDC Limited, Registered Office and Head Office 10-3-311/A, Khanij Bhavan, Castle Hills, Masab Tank, Hyderabad – 500028, Telangana and the site office specified in column (3) of the said Schedule.

SCHEDULE

Sr. No.	Designation of person appointed as Competent Authority	Official Address	Section of the Act	Functions of the Competent Authority
(1)	(2)	(3)	(4)	(5)
1.	1.Executive Director 2.Chief General Manager 3. General Manager 4. Deputy General Manager 5. Assistant General Manager 6. Senior Manager 7. Manager	M/s NMDC Limited, Regd. Office and HO 10-3-311/A, Khanij Bhavan, Castle Hills, Masab Tank, Hyderabad- 500028, Telangana and Site office – NMDC Limited, 2 nd floor, JSFC Bhavan, Ranchi District – Ranchi State - Jharkhand	Sub-section (3) of section 4.	(a) To enter upon and survey the land for prospecting coal; (b) to dig or bore into the sub soil; (c) to do all acts necessary to prospect for coal in the land; (d) to set out boundaries of the land in which prospecting is proposed to be done; (e) to mark such boundaries and line by placing marks; and (f) where survey cannot be completed and the boundaries and the line marked, to cut down and clear away any part of standing crop, fence or jungle.
2.	1.Executive Director 2. Chief General Manager 3. General Manager 4. Deputy General Manager 5. Assistant General Manager 6. Senior Manager 7. Manager	M/s NMDC Limited, Regd. Office and HO 10-3-311/A, Khanij Bhavan, Castle Hills, Masab Tank, Hyderabad- 500028, Telangana and Site office – NMDC Limited, 2 nd floor, JSFC Bhavan, Ranchi, District – Ranchi State - Jharkhand	Section 6.	Payment of compensation on amount of damage likely to be caused and referring dispute to the Central Government.
3.	Coal Controller	Office of the Controller, 1, Council House Street, Kolkata-70001.	Sub-section (2) of section 8.	Hearing of objections against acquisition and submitting of report to the Central Government.
4.	1. Executive Director 2. Chief General Manager 3. General Manager	M/s NMDC Limited, Regd. Office and HO 10-3-311/A, Khanij Bhavan, Castle Hills, Masab Tank, Hyderabad 500028, Telangana.	Section 12.	Notice to persons to surrender possession of land and take possession thereof.

	4. Deputy General Manager 5. Assistant General Manager 6. Senior Manager 7. Manager	and Site office – NMDC Limited, 2 nd floor, JSFC Bhavan Ranchi District – Ranchi State - Jharkhand	Sub-sections (5) and (5A) of section 13. Sub-section (6) of Section 13. Sub-section (1) of section 14. Sub-section (4) of section 14. Section 16. Section 17. Section 19. Sub-section (3) of section 20. Section 21.	Determination of compensation of land and rehabilitation and resettlement benefits. Payment of compensation for damages not provided elsewhere in the Act. Payment of compensation fixed by agreement. Statement before the Tribunal regarding compensation. Payment of interest on award of the Tribunal Payment of compensation. To exercise the powers and duties delegated by the Central Government. Giving the report during hearing of Appeal by the Central Government and the finding of its order. Powers to obtain information.
5.	1. Executive Director 2. Chief General Manager 3. General Manager 4. Deputy General Manager 5. Assistant General Manager 6. Senior Manager 7. Manager	M/s NMDC Limited, Regd. Office and HO 10-3-311/A, Khanij Bhavan, Castle Hills, Masab Tank, Hyderabad 500028, Telangana. and Site office – NMDC Limited, 2 nd floor, JSFC Bhavan Ranchi District – Ranchi State – Jharkhand.	Section 22.	Power to enter and inspect any property.

[F. No. 43015/15/2022-LA&IR]

RAM SHIROMANI SAROJ, Director

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 21 सितम्बर, 2022

का. आ. 860 .— सरकारी स्थान (अप्राधिकृत अधिभोगियों कि बेदखली) अधिनियम 1971 (1971 का 40) के खंड 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये भारत के राजपत्र में प्रकाशित पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय, भारत सरकार की अधिसूचना का आ संख्या 842 दिनांक 20 मई, 2019 के अधिक्रमण में, केंद्र सरकार उत्कअधिनियाम के प्रयोजन के लिए संपदा अधिकारी को एन्द्ररा सांविधिक प्राधिकारी के समक्ष रैंक के अधिकारी को नीचे दी गयी तालिका के अनुसार नियुक्त करती है, जो कथिक लतिका के स्थानीय कॉलम 3 में इसी प्रविष्टि में निर्दिष्ट सार्वजनिक परिसर के संबंध में अधिकार क्षेत्र की स्थानीय सीमाओं के भीतर उक्त अधिनियाम के तहत संपदा अधिकार के कर्तव्यों का पालन करते हुये प्रदत्त शक्तियों का प्रयोग करेगा

तालिका

क्र.सं.	इकाई/कार्यालय का नाम	अधिकारी का पदनाम	सरकारी परिसर की श्रेणियाँ एवं क्षेत्राधिकार की स्थानीय सीमाएं
	नुमालीगढ़ रिफाइनरी लिमिटेड	श्री उज्जल नयन हैंडिक, मुख्य प्रबंधक (नगरबसती एवं संपदा) नुमालीगढ़ रिफाइनरी लिमिटेड, पी ओ : नुमालीगढ़ रिफाइनरी परिसर, जिला गोलाघाट 785699 असम	नुमालीगढ़ रिफाइनरी लिमिटेड, नुमालीगढ़ जिला गोलाघाट असम में स्थित नुमालीगढ़ रिफाइनरी लिमिटेड, के प्रशासनिक नियंत्रण में सभी परिसर

[फ़ा. सं. R-12041(11)/16/2017-OR-II/E-7909]

पी. सोमाकुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 21st September, 2022

S.O. 860.—In exercise of the power conferred by section 3 of the Public Premises (Eviction of Unauthorized Occupants) Act-1971 (40 of 1971) and in supersession of the notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. No 842 dated 20th May, 2019 the Central Government hereby appoints the officer mentioned in the table below, being officer of equivalent rank of Statutory Authority, to be Estate Officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on Estate Officer by or under the said Act within the local limits of the jurisdiction in respect of the public premises specified in the Act corresponding entry in the local column 3 of the said table.

TABLE

Sl. No.	Name of the Unit/Office	Designation of the Officer	Categories of the Public premises and local Limits of Jurisdiction
1	Numaligarh Refinery Limited	Shri Ujjal Nayan Handique, Chief Manager (Township & Estate), Numaligarh Refinery Limited. PO: Numaligarh Refinery Complex, Dist Golaghat-785699 Assam	All premises under the administrative control of Numaligarh Refinery Limited located at Numaligarh Dist. Golaghat, Assam

[F. No. R-12041(11)/16/2017-OR-II/E-7909]

P. SOMAKUMAR, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 861—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **आयुक्त, दिल्ली नगर निगम (उत्तरी), दिल्ली**, के प्रबंधन के संबद्ध नियोजकों और **श्री विजय पाल, कामगार, के द्वारा दिल्ली उद्यान कर्मचारी संघर्ष संघ, नई दिल्ली** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- 2 नई दिल्ली पंचाट(संदर्भ संख्या 142/2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 04.08.2022 को प्राप्त हुआ था।

[सं. एल -42011/93/2020-आईआर(डीयू)]

डी.के.हिमांशु, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 19th September, 2022

S.O. 861.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 142/2020) of the **Central Government Industrial Tribunal cum Labour Court - II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Commissioner, North Delhi Municipal Corporation, Delhi, and Shri Vijay Pal, Worker, Through Delhi Udhyan Karamchari Sangarsh Union, New Delhi**, which was received along with soft copy of the award by the Central Government on 04.08.2022.

[No. L-42011/93/2020-IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXUR**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT-II, NEW DELHI****Present:** Smt. Pranita Mohanty**ID.NO.142/2020**

Shri Vijay Pal S/o Saradre Singh,

Rept. By Delhi Udhyan Karamchari Sangarsh Union,

B-40 , DDA Flat, Bulward Road, Delhi-110054

...Workman

Versus

North Delhi Municipal Corporation,

Through its commissioner, Civic Centre,

New Delhi.

....Management

AWARD

In the present case, a reference was received from the appropriate Government vide reference no. L-42011/93/2020 (IR(DU)) dated 21/09/2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

“Whether the worker Sh. Vijay Pal S/o Sardare Singh represented through Delhi Udhyan Karamchari Sangarsh union vide letter dated 21.03.2017 against the management of North Delhi Municipal Corporation, is entitled to pay and allowances of the post of driver and if yes, to what relief is he entitled and what direction are necessary in this respect. ?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 862.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य सुरक्षा अधिकारी, रक्षा अनुसंधान एवं विकास संगठन, मेटकॉफ हाउस, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री बी एस दहिया, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय-2 नई दिल्ली पंचाट (संदर्भ संख्या 136/20) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 23.08.2022 को प्राप्त हुआ था।

[सं. एल-42025/07/2022-23-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19 September, 2022

S.O. 862.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 136/20) of the Central Government Industrial Tribunal cum Labour Court -II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief Security Officer, Defence Research and Development Organization, Metcalf House, New Delhi, and Shri B. S Dahiya, Worker, which was received along with soft copy of the award by the Central Government on 23.08.2022.

[No. L-42025/07/2022-23-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT-II, NEW DELHI

Present: Smt. Pranita Mohanty

ID.NO.136/20

Shri B. S Dahiya, S/o Sh. Ravi Datt Dahiya,
R/o Village & Post Office, Nahara, District-Sonipat,
Haryana-131103

...Workman

Versus

The Chief Security Officer
Defence Research and Development Organization,
Metcalf House, New Delhi-110054

...Management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. ND.96(02)2020-ID-FOC-DY. CLC dated 01.07.2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

“Whether the services of the workman Sh. B.S Dahiya has been terminated illegally by the management and if so what relief is the workman entitled and what relaxation are necessary in this respect?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days

of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put his appearance nor has he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Date: 8th April, 2022

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 863.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आयुक्त, दिल्ली नगर निगम (दक्षिण), दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री लेखराज, कामगार, के द्वारा महासचिव एमसीडी जनरल मजदूर यूनियन, नई दिल्ली के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट (संदर्भ संख्या 92/2013) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 04.08.2022 को प्राप्त हुआ था।

[सं. एल-42011/26/2013-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2022

S.O. 863.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 92/2013) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Commissioner, Municipal Corporation of Delhi (South), Delhi, and Shri Lekhraj, Worker, Through MCD General Mazdoor Union, New Delhi, which was received along with soft copy of the award by the Central Government on 04.08.2022.

[No. L-42011/26/2013-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 92/2013

Date of Passing Award- 29.07.2022

Between:

Shri Lekh Raj,
S/o Late Ganesh Lal,
C/o Through MCD General Mazdoor Union,

Room No.95, Barracks No. 1/10, Jam Nagar House,
Shahjahan Road,
New Delhi-

... Workman

Versus

The Commissioner,
Municipal Corporation of Delhi (South)
9th Floor, Civic Centre, Minto Road,
Delhi-110002.

... Management

Appearances:-

Shri B.K Prasad

For the claimant

(A/R)

Shri Rajiv Kumar Bhardwaj

For the Management

(A/R)

AWA D

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Municipal Corporation of Delhi (South), and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42011/26/2013 (IR(DU)) dated 10/07/2013 to this tribunal for adjudication to the following effect.

“Whether the action of the management of MCD Delhi in not granting pay scale of Rs. 950-1500 w.e.f 20.04.1993 and revised from time to time alongwith all consequential benefits to workman Shri Lekh Raj S/o Shri Late Ganesh Lal Officiating Chaudhary w.e.f 20.04.1993 is fair and justified? What relief the workman is entitled to?”

This is a reference received from the appropriate government for adjudication if the denial by MCD in not granting the pay scale at the rate of 950-1500 to the claimant i.e. 20.04.1993 for the post of Garden chaudary is fair and justify.

As per the claim statement the claimant has joined the management as a Mali in the year 15/10/1991 as Mali on daily wage basis in the pay scale of 750- 940. He was allotted the work of Garden Chaudhary i.e. 1993 by the competent authority of Horticulture Department and was posted under Green Park, South Zone of MCD Delhi. Though he is working in the said post of Garden Chaudhary from 20.04.1993 the management has denied him the pay scale of Garden Chaudhary at the rate of 3050-4590 from that date. The post of Mali comes under unskilled category whereas the post of Chaudhary is the skilled category under Group C of the employment. Repeated demand made by the claimant for grant of proper pay scale as has been done in the case of Jai Chand vs. MCD and MCD vs. Sultan Singh were not considered. Having no other efficacious remedy the claimant approach the Labour Commissioner through the General Mazdoor Union where a conciliation was taken up. But for the adamant attitude of the management conciliation failed and the matter has been referred for adjudication. In the claim petition the claimant has prayed that a direction be given to the management to pay him the scale of Garden Chaudhary from 1993 i.e the date he started officiating in the post of Garden Chaudhary in the pay scale of 950-1500.

The management when noticed appeared and filed the written statement. The main challenge of the management is that the present dispute cannot be termed as Industrial Dispute since, the same has not been espoused by the union having the majority no. of members. The other challenge is that the claimant had never performed the duty of Garden Chaudhary and no order to that effect was ever issued by the competent authority of the management. However the management has admitted that the claimant was appointed on daily wage basis in the year 1990 as Mali and later on he was regularized on the same post in the pay scale of 750-940 (pre revised). There is a prescribe process for promotion to the post of Garden Chaudhary and it is so done when there is a vacancy in the sanctioned post. The said promotion is not automatic but subject to having requisite qualification and qualifying the trade test conducted by the department. The claimant had never qualified the said trade test and the claim is based upon misconceived facts. Thereby the management has prayed for dismissal of the claim petition.

On these rival pleadings the following issues are framed for adjudication.

ISSUES

1. Whether the action of the management MCD Delhi in not granting pay scale of 950-1500 w.e.f 20.04.1993 and revised the same from time to time with consequential benefit to the workman Shri Lekh Raj S/o Late Ganesh Lal as the officiating Garden Chaudhary is justified and what would be the effect?
2. To what relief the workman is entitled to.

During the hearing the claimant testified as WW1 and exhibited two documents and marked as WW1/1 and WW1/2. The said documents include the office order by which the claimant was ordered to act as the officiating Garden Chaudhary w.e.f 20.04.1993. The other document exhibited by the claimant is the order dated 04.06.2013 issued by the Director Horticulture SDMC wherein all the deputy Director Horticulture were directed to verify, examine the claim of the applicant regarding discharge of duty in the higher post i.e. Garden Chaudhary and on verification if the claim is found to be genuine wage equal to the pay attached to the post they actually worked be paid to them. Besides examining himself the claimant has also examined the President of the MCD General Mazdoor Union as WW2 this witness proves three documents marked as WW2/1 to WW2/3. These documents have been exhibited to disprove the allegation of the management that the proceeding is not maintainable for want of espousal. Besides adducing oral and documentary evidence through its witnesses the claimant has confronted several documents to the witness examined by the management. On behalf of the management the Assistant Director Horticulture testified as MW1. He also proved several documents marked as MW1/1 to MW1/2 disprove the stand of the claimant.

At the outset of the argument the Ld. A/R for the claimant submitted that the law is well settled that equal remuneration should be paid for equal nature of work and denial of the same amounts to unfair labour practice. Relying on the judgments of the Hon'ble High Court of Delhi in the case of MCD vs. Sultan Singh decided in WPC NO. 7947 of 2010 which was later on upheld in the Hon'ble Supreme Court he submitted that the division Bench of the Hon'ble High Court have held that the list issued by Zonal Horticulture Department of MCD are the list issued by the competent authority and the persons whose name appear in the said list are entitled to the pay attached to the post in which they are working as the Garden Chaudhary. He thereby submitted that the name of the claimant Lekh Raj since appears at serial No. 35 of the list (WW1/1) issued by the Zonal office, he is entitled for the scale attached to that post from 20.04.1993 and denial for the same amounts to unfair labour practice. This argument of the A/R for the claimant has been rebutted on the ground that the name of the claimant was never mentioned in any list of the officiating Garden Chaudhary and the document marked as WW1/1 is not a document issued by the competent authority from a zonal office of the management.

FINDINGS

ISSUE No.1 and 2

The claimant in his sworn testimony has stated that his initial appointment was in the year 1993 but he was allotted the work of Garden Chaudhary w.e.f 20.04.1993 by the Competent Officer Horticulture Department. Not only that he was deputed to the South Zone under the Green Park Area to work under the Director of Horticulture and working as such since then. But he has been denied the pay scale of Garden Chaudhary. To support his stand he has filed the document marked as WW1/1 which is an order issued by the Deputy Director Horticulture middle Zone issued on 12.08.2004 indicating the list of officiating Garden Chaudharies with reference to the date of their initial appointment and the date from which they are officiating and the area they are working. In this list at serial no. 35 the name of the claimant appears. The management has denied this document. The other document filed by the claimant is the letter dated 04.06.2013 issued by the Director of Horticulture and marked as WW1/2. By this letter the Director of Horticulture has authorized the Deputy Directors to verify and issue the list of the persons working as officiating Garden Chaudharies. Of course the order dated 4.6.2013 i.e. WW1/3 is with regard to the claimants in the case of Sultan Singh and others vs. MCD. The witness examined by the management is not none other than the Deputy Director of Horticulture. He has stated that the workman had never worked as the Garden Chaudhary being assigned the said duty. The claim advanced by him is illegal. While filing the copy of the recruitment rules the witness has stated that the workman has already been given the benefits of first ACP and second ACP and thus he is not entitled to the claim and the benefits. During cross examination this witness was confronted with the documents of the management which are the photocopies of the service book of the claimant and the office order of transfer of the claimant wherein he has been described as Mali. The claimant was cross examined at length by the management. But the witness remained firm in his stand and denied to the suggestions that he is still working as a Mali and was never ordered by the competent authority to officiate as Garden Chaudhary.

The issue whether the Malis directed by the Deputy Director Horticulture to officiate as Garden Chaudhary and the entitlement of those officiating Garden Chaudharies have been decided by the Hon'ble High Court of Delhi in the case of MCD vs. Sultan Singh WPC No. 7947 of 2010 wherein the Hon'ble Court have held that the persons officiating when not claiming appointment to the post of Garden Chaudhary but claiming the salary attached to the post for having worked on adhoc basis in that post are entitled to the salary attached to the said post. The MCD had challenged the order of the Hon'ble High Court of Delhi in SLP NO. 20069 of 2011 before the Hon'ble Supreme Court and the same was dismissed as withdrawn. On

behalf of the claimant the judgment of the Hon'ble Delhi High Court in the case of Jai Chand vs. MCD CW6514 of 2001 has been filed wherein the Hon'ble Court have disapproved the action of the management in not paying equal pay to the Garden Chaudharies officiating for taking the work from them for that post. The order of the management pursuant to the order passed in the case of Jai Chand has been filed as annexure B. thus, the claimant has categorically stated that the management is guilty of unfair Labour practice meted to the claimant for not granting the pay scale of Garden Chaudhary to him from the date he started officiating in the said post i.e. 20.04.1993. Accordingly it is held that the management is guilty of unfair labour practice and the claimant is entitled to the pay scale of 950-1500 w.e.f 20.04.1993 and revision affected from time to time alongwith all other consequential benefits attached to the said scale w.e.f 20.04.1993. The issue is accordingly decided in the favour of the claimant. Hence, ordered.

ORDER

The reference be and the same is answered in favour of the workman. It is held that the claimant is entitled to the pay scale admissible to Garden Chaudhary with effect from 20.04.1993, revision of the same as has been done in case of the persons placed in similar footing and grant all other consequential benefits to the claimant within 3 months from the date this award would become executable. The management is also directed to pay the arrear of the differential salary to the claimant within a period of further 6 months from the date of publication of the award failing which the amount accrued shall carry interest @9% from the date of accrual and till the final payment is made. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

29th July, 2022

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 864.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड, के प्रबंधन के संबद्ध नियोजकों और बीएसएनएल, कैजुअल और कॉन्ट्रैक्ट वर्कर्स यूनियन, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 87/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.09.2022 को प्राप्त हुआ था।

[सं. एल-42025/07/2022-25-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2022

S.O. 864.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 87/2018) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Bharat Sanchar Nigam Limited, and BSNL Casual and Contract workers Union, which was received along with soft copy of the award by the Central Government on 07.09.2022.

[No. L-42025/07/2022-25-IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
NEW DELHI

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 87/2018

Date of Passing Award- 23.08.2022

Between:

BSNL Casual and Contract workers Union (Regd.),

...Workman

Versus

Bharat Sanchar Nigam Limited

...Management

Appearances:-

None for the claimant

For the claimant

(A/R)

Shri Atul Bhardwaj

For the Management

(A/R)

AWARD

This award is intended to dispose of the application filed u/s 33(1)(a) of the Id Act by the workman as the claimant. Perusal of the record shows that the claimant has alleged in this application that a dispute between him and the management is pending wherein the claimant has claimed the relief of regularization in service by the management. Though, the management has appeared in the said proceeding and has full knowledge about the same, in gross violation of the provisions of section 33 threatened to change the service condition of the claimant and also gave out threatening to terminate his service. Being aggrieved the present application was filed.

Notice of the application being served the management BSNL filed its reply stating that the present proceeding is not maintainable as the same has been filed on an apprehended cause of action. While denying employer and employee relationship between the parties the management has stated that the petition is liable to be dismissed for want of cause of action as well as for false statement of the claimant.

It is evident from the record that after completion of the pleading the claimant was called upon to adduce evidence. But no evidence was adduced and agreed by both the parties the matter was listed for argument. Today no argument was advanced by the claimant.

The Ld. A/R Mr. Bhardwaj representing the BSNL oppose the claim of the claimant and submitted that the entire application is based upon imaginary allegations and infact the claimant has no cause of action. Admittedly the claimant except filing the application has not adduced any oral or documentary evidence to support his stand. The claim petition contains a statement regarding the apprehension of the complainant of termination for the industrial dispute pending. The claim petition has not disclosed the details and the number of the industrial dispute pending between the parties. The management in its reply has denied about the industrial dispute pending. The provision of law laid u/s 33 of the Id Act provides that during the pendency of an industrial dispute before the labour court or tribunal, no employer shall in regard to any matter connected with the said dispute alter to the prejudice of the workman concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding. Section 33A prescribes that if any such alteration in service condition as referred u/s 33 happens the person aggrieved can agitate the matter before the labour court or tribunal who shall adjudicate upon the complaint as if it were a dispute referred to or pending before it. On a plain reading of the provisions of section 33 and 33A thus, leads to a conclusion that for invoking the provision the requirements are that an industrial dispute between the parties must have been pending and during such pendency the employer changes the service condition of the employee. But here is a case the claimant has not furnished the detail of the industrial dispute pending between the parties. Not only that there is absolutely no evidence laid by the claimant to prove how his

service condition was changed by the employer during the pendency of the proceeding. Hence, there being no evidence on record it is held that the claimant has failed to prove the allegations made in the complaint petition filed u/s 33 of the ID act. Hence, ordered.

ORDER

The complaint be and the same is dismissed on contest and answered against the complainant. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

23rd August, 2022

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 865.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य, एनडीडीटीसी, एम्स, गाजियाबाद, (यूपी); मैसर्स सुपर एयरकॉन, नई दिल्ली; के.एस.एल इंटरप्राइजेज, जनकपुरी, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री मुकेश, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 86/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 30.08.2022 को प्राप्त हुआ था।

[सं. एल -42012/111/2014-आईआर(डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 19th September, 2022

S.O. 865.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 86/2015) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief, NDDTC, AIIMS, Ghaziabad, (U.P.); M/s Super Aircon, New Delhi ; K.S.L Enterprises, Janakpuri, New Delhi and Shri Mukesh, worker which was received along with soft copy of the award by the Central Government on 30.08.2022.

[No. L-42012/111/2014-IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

PRESENT:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 86/2015

Date of Passing Award- 08.08.2022

Between:

Shri Mukesh,
S/o Shri Rampal,
At:- Vill & PO- Panchali Khurd,
Baghpat Road,
Meerut (U.P)-250005.

... Workman

Versus

1. The Chief,
NDDTC, AIIMS,
Kamla Nehru Nagar,
Near Central Public School,
Ghaziabad, U.P.

2. M/s Super Aircon,
At- C-129, Pandav Nagar,
Behind Radha Krishna Temple,
New Delhi-110092.

3. K.S.L Enterprises,
Office At:- A-1/353,
Janakpuri, New Delhi.

...Managements

Appearances:-

Shri Arvind Kumar

For the claimant

(A/R)

Shri Vikrant Narayan

For the Management

(A/R)

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of NDDTC, AIIMS, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42012/111/2014 (IR(DU) dated 09/09/2014 to this tribunal for adjudication to the following effect.

“Whether the action of the management of NDDTC, AIIMS Ghaziabad, its contractor M/s KSL Enterprises in terminating the services of workman Shri Mukesh S/o Shri Rampal w.e.f 17.12.2012 and nonpayment of dues from May 2012 is legal and justified? If not, what relief the workman is entitled to?”

As per the claim statement the claimant was working in the premises of NDDTC, AIIMS Ghaziabad through the contractor M/s KSL Enterprises and his service was illegally terminated w.e.f 07.12.2012 and his wage for the months from May 2012 till the date of termination was not paid. During course of employment though he had worked continuously for a period of 240 days in a calendar year preceding to his termination and the nature of work discharged was perennial, the management No.1 never conferred temporary status on him. During course of employment the management No.1 neither gave him letter of appointment nor extended the benefits of EPF and ESI Act. The demand raise by the claimant for his legitimate dues perhaps irritated the management leading to his termination. Being aggrieved he has raised a dispute before the labour commissioner where steps for conciliation were taken. Since, the conciliation failed the appropriate government referred the matter to this tribunal. The claimant in the claim petition has thus prayed for an award to be passed directing the management No.1 to reinstate the claimant into service with back wages and to pay the arrear wage from May 2012 till the date of reinstatement.

Being noticed the management No.1 i.e. AIIMS appeared and filed WS denying the employer and employee relationship with the claimant. It has been stated that the management AIIMS is not an industry and the claimant was never employed by them. The management of AIIMS enters into the contract with different contractors for execution of the work of Gardner/ Assistant Technician etc. the contractor is paid the amount as per the contract. The engagement of the persons through the contractors terminates with the termination of the contract. At no point of time the service of the claimant was terminated by the management No.1 nor any unfair labour practice was meted to him. It has also been stated that the claimant has not stated specifically about the dates when he was inducted into the service of the management No.1 and when his service was terminated. Thus, the management has pleaded for dismissal of the claim as not maintainable. The claimant filed rejoinder reiterating stand taken.

On the rival pleading the following issues were framed for adjudication.

ISSUES

1. Whether the action of the management NDDTC, AIIMS Ghaziabad and its contractor KSL Enterprises in terminating the service of workman Shri Mukesh S/o Rampal w.e.f 17.12.2012 and nonpayment of dues from May 2012 is legal and justified.
2. If Not, what relief the workman is entitled?

The claimant testified himself as WW1 and relied upon the one document marked as WW1/1 which is the complaint filed before the Labour Commissioner. On behalf of the management one Sanjay Kumar Jain the Assistant Engineer Civil was examined as MW1. Both the witnesses were examined at length.

FINDING

The reference has been received for adjudication to the effect if the termination of service of one Rampal is legal and justified. But the claim has been filed one mukesh s/o Rampal. The management AIIMS and two contractors have been made parties. Those two contractors did not appear and proceeded ex parte. During the pendency the claimant filed an application u/s 11(3) of the Act for a direction to the management for production of document. That application was allowed and the management was directed to file attested copies of the documents prayed for giving liberty to the claimant to adduce secondary evidence. As seen from the record neither the management produced the documents nor the claimant adduced secondary evidence. The claimant tendered his affidavit as WW1 and the management examined one witness as MW1. The claimant who testified as WW1 has stated that during the course of employment the salary slip was not provided and the benefits of the EPF and ESI were not extended to him. No attendance register for the work done by him was maintained nor I card was issued to him. During cross examination the witness has stated that he is working against a permanent post and the duty was being assigned by the J.E. He has made it clear that his employment was directly under the management No.1 and not under the contractor management no.2 and 3. During cross examination though he has stated that his employment was from 1st January 2009 to December 2012 as Gardner and he was working from 08.00A.M to 05.00 PM everyday till his termination in December 2012 no document or prove has been placed on record to prove the same. No other oral or documentary evidence to prove that the claimant was working in the premises of the management No.1 under its supervision and control has been filed. The claimant has thus, miserably failed to discharge the burden in showing his employment under the management No.1 and completion of 240 days in a calendar year which could have conferred temporary status on him making it obligatory on the part of the employer to comply with the provisions of section 25F of the Id Act. The management No.1 has taken a plea that the claimant was never employed by the management No.1. He might have been engaged through the contractor. The management has taken a stand that the award cannot be passed against the management. During cross examination of the management witness though several questions were put and a letter issued by the management No.1 and marked as WW1/1 was confronted, the same no way proves that the claimant was ever employed by the management and his service was illegally terminated by the management No.1. There is absolutely no evidence on record to show that there exist employer and employee relationship between the claimant and management No.1 and the service was illegally terminated. For want of proof the claim advanced by the claimant is liable to be rejected. Hence, ordered.

ORDER

The claim be and the same is dismissed and the reference is accordingly answered. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

08th August, 2022

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 866—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य, एनडीडीटीसी, एम्स, गाजियाबाद, (यूपी); मैसर्स सुपर एयरकॉन, नई दिल्ली; के.एस.एल इंटरप्राइजेज, जनकपुरी, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री जय प्रकाश, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 85/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 30.08.2022 को प्राप्त हुआ था।

[सं. एल -42012/121/2014-आईआर(डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 19th September, 2022

S.O. 866.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 85/2015) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief, NDDTC, AIIMS, Ghaziabad, (U.P.); M/s Super Aircon, New Delhi ; K.S.L Enterprises, Janakpuri, New

Delhi and Shri Jai Prakash, worker which was received along with soft copy of the award by the Central Government on 30.08.2022.

[No. L-42012/121/2014-IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
NEW DELHI

PRESENT:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 85/2015

Date of Passing Award- 08.08.2022

Between:

Shri Jai Prakash,
S/o Shri Bharam Singh,
At- Village & Post Panchali Khurd,
Baghpat Road, Distt.,
Meerut (U.P)-250005.

... Workman

Versus

1. The Chief,
NDDTC, AIIMS,
Kamla Nehru Nagar,
Near Central Public School,
Ghaziabad, U.P.
2. M/s Super Aircon,
At- C-129, Pandav Nagar,
Behind Radha Krishna Temple,
New Delhi-110092.
3. K.S.L Enterprises,
Office At:- A-1/353,
Janakpuri, New Delhi.

...Managements

Appearances:-

Shri Arvind Kumar
(A/R)

For the claimant

Shri Vikrant Narayan
(A/R)

For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of NDDTC, AIIMS, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42012/121/2014 (IR(DU) dated 15/09/2014 to this tribunal for adjudication to the following effect.

“Whether the action of the management of NDDTC, AIIMS Ghaziabad, its contractor- M/s KSL Enterprises in terminating the services of workman Shri Rampal w.e.f 17/12/2012 and nonpayment of dues from May 2012 is legal and justified? If Not, what relief the workman is entitled to?”

As per the claim statement the claimant was working in the premises of NDDTC, AIIMS Ghaziabad through the contractor M/s KSL Enterprises and his service was illegally terminated w.e.f 07.12.2012 and his wage for the months from May 2012 till the date of termination was not paid. During course of employment though he had worked continuously for a period of 240 days in a calendar year preceding to his termination and the nature of work discharged was perennial, the management No.1 never conferred temporary status on him. During course of employment the management No.1 neither gave him letter of appointment nor extended the benefits of EPF and ESI Act. The demand raise by the claimant for his legitimate dues perhaps irritated the management leading to his termination. Being aggrieved he has raised a dispute before the labour commissioner where steps for conciliation were taken. Since, the conciliation failed the appropriate government referred the matter to this tribunal. The claimant in the claim petition has thus prayed for an award to be passed directing the management No.1 to reinstate the claimant into service with back wages and to pay the arrear wage from May 2012 till the date of reinstatement.

Being noticed the management No.1 i.e. AIIMS appeared and filed WS denying the employer and employee relationship with the claimant. It has been stated that the management AIIMS is not an industry and the claimant was never employed by them. The management of AIIMS enters into the contract with different contractors for execution of the work of Gardner/ Assistant Technician etc. the contractor is paid the amount as per the contract. The engagement of the persons through the contractors terminates with the termination of the contract. At no point of time the service of the claimant was terminated by the management No.1 nor any unfair labour practice was meted to him. It has also been stated that the claimant has not stated specifically about the dates when he was inducted into the service of the management No.1 and when his service was terminated. Thus, the management has pleaded for dismissal of the claim as not maintainable. The claimant filed rejoinder reiterating stand taken.

On the rival pleading the following issues were framed for adjudication.

ISSUES

1. Whether the action of the management NDDTC, AIIMS Ghaziabad and its contractor is terminating the service of workman Shri Jai Prakash w.e.f 17.12.2012 is legal and justified.
2. If Not, what relief the workman is entitled?

The claimant testified himself as WW1 and relied upon the one document marked as WW1/1 which is the complaint filed before the Labour Commissioner. On behalf of the management one Sanjay Kumar Jain the Assistant Engineer Civil was examined as MW1. Both the witnesses were examined at length.

FINDING

The reference has been received for adjudication to the effect if the termination of service of one Rampal is legal and justified. But the claim has been filed one mukesh s/o Rampal. The management AIIMS and two contractors have been made parties. Those two contractors did not appear and proceeded ex parte. During the pendency the claimant filed an application u/s 11(3) of the Act for a direction to the management for production of document. That application was allowed and the management was directed to file attested copies of the documents prayed for giving liberty to the claimant to adduce secondary evidence. As seen from the record neither the management produced the documents nor the claimant adduced secondary evidence. The claimant tendered his affidavit as WW1 and the management examined one witness as MW1. The claimant who testified as WW1 has stated that during the course of employment the salary slip was not provided and the benefits of the EPF and ESI were not extended to him. No attendance register for the work done by him was maintained nor I card was issued to him. During cross examination the witness has stated that he is working against a permanent post and the duty was being assigned by the J.E. He has made it clear that his employment was directly under the management No.1 and not under the contractor management no.2 and 3. During cross examination though he has stated that his employment was from 1st January 2009 to December 2012 as Gardner and he was working from 08.00A.M to 05.00 PM everyday till his termination in December 2012 no document or prove has been placed on record to prove the same. No other oral or documentary evidence to prove that the claimant was working in the premises of the management No.1 under its supervision and control has been filed. The claimant has thus, miserably failed to discharge the burden in showing his employment under the management No.1 and completion of 240 days in a calendar year which could have conferred temporary status on him making it obligatory on the part of the employer to comply with the provisions of section 25F of the Id Act. The management No.1 has taken a plea that the claimant was never employed by the management No.1. He might have been engaged through the contractor. The management has taken a stand that the award cannot be passed against the management. During cross examination of the management witness though several questions were put and a letter issued by the management No.1 and marked as WW1/1 was confronted, the same no way proves that the claimant was ever employed by the management and his service was illegally terminated by the management No.1. There is absolutely no evidence on record to show that there exist employer and employee relationship between the

claimant and management No.1 and the service was illegally terminated. For want of proof the claim advanced by the claimant is liable to be rejected. Hence, ordered.

ORDER

The claim be and the same is dismissed and the reference is accordingly answered. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

08th August, 2022

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 867.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य, एनडीडीटीसी, एम्स, गाजियाबाद, (यूपी); मैसर्स सुपर एयरकॉन, नई दिल्ली; के.एस.एल इंटरप्राइजेज, जनकपुरी, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री पवन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 84/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 30.08.2022 को प्राप्त हुआ था।

[सं. एल -42012/119/2014-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2022

S.O. 867.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 84/2015) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief, NDDTC, AIIMS, Ghaziabad, (U.P.); M/s Super Aircon, New Delhi ; K.S.L Enterprises, Janakpuri, New Delhi and Shri Pawan, worker which was received along with soft copy of the award by the Central Government on 30.08.2022.

[No. L-42012/119/2014-IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
NEW DELHI**

PRESENT:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 84/2015

Date of Passing Award- 08.08.2022

Between:

Shri Pawan,
S/o Shri Ramphal,
At- Village & Post Kachida,
Varshabad, Gautam Budh Nagar,
Meerut (U.P)-250005.

... Workman

Versus

1. The Chief,
NDDTC, AIIMS,
Kamla Nehru Nagar,
Near Central Public School,
Ghaziabad, U.P.

2. M/s Super Aircon,
At- C-129, Pandav Nagar,
Behind Radha Krishna Temple,
New Delhi-110092.

3. K.S.L Enterprises,
Office At:- A-1/353,
Janakpuri, New Delhi.

...Managements

Appearances:-

Shri Arvind Kumar
(A/R)

For the claimant

Shri Vikrant Narayan
(A/R)

For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of NDDTC, AIIMS, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42012/119/2014 (IR(DU) dated 15/09/2014 to this tribunal for adjudication to the following effect.

“Whether the action of the management of NDDTC, AIIMS Ghaziabad, its contractor- M/s Super Aircon in terminating the services of workman Shri Pawan Kumar S/o Shri Rampal w.e.f 21.12.2012 is legal and justified? If not, what relief the workman is entitled to?”

As per the claim statement the claimant was working in the premises of NDDTC, AIIMS Ghaziabad through the contractor M/s KSL Enterprises and his service was illegally terminated w.e.f 07.12.2012 and his wage for the months from May 2012 till the date of termination was not paid. During course of employment though he had worked continuously for a period of 240 days in a calendar year preceding to his termination and the nature of work discharged was perennial, the management No.1 never conferred temporary status on him. During course of employment the management No.1 neither gave him letter of appointment nor extended the benefits of EPF and ESI Act. The demand raise by the claimant for his legitimate dues perhaps irritated the management leading to his termination. Being aggrieved he has raised a dispute before the labour commissioner where steps for conciliation were taken. Since, the conciliation failed the appropriate government referred the matter to this tribunal. The claimant in the claim petition has thus prayed for an award to be passed directing the management No.1 to reinstate the claimant into service with back wages and to pay the arrear wage from May 2012 till the date of reinstatement.

Being noticed the management No.1 i.e. AIIMS appeared and filed WS denying the employer and employee relationship with the claimant. It has been stated that the management AIIMS is not an industry and the claimant was never employed by them. The management of AIIMS enters into the contract with different contractors for execution of the work of Gardner/ Assistant Technician etc. the contractor is paid the amount as per the contract. The engagement of the persons through the contractors terminates with the termination of the contract. At no point of time the service of the claimant was terminated by the management No.1 nor any unfair labour practice was meted to him. It has also been stated that the claimant has not stated specifically about the dates when he was inducted into the service of the management No.1 and when his service was terminated. Thus, the management has pleaded for dismissal of the claim as not maintainable. The claimant filed rejoinder reiterating stand taken.

On the rival pleading the following issues were framed for adjudication.

ISSUES

1. Whether the action of the management NDDTC, AIIMS Ghaziabad and its contractor M/s Super Aircon in terminating the service of workman Shri Pawan Kumar w.e.f 21.12.2012 is legal and justified.
2. If Not, what relief the workman is entitled?

The claimant testified himself as WW1 and relied upon the one document marked as WW1/1 which is the complaint filed before the Labour Commissioner. On behalf of the management one Sanjay Kumar Jain the Assistant Engineer Civil was examined as MW1. Both the witnesses were examined at length.

FINDING

The reference has been received for adjudication to the effect if the termination of service of one Rampal is legal and justified. But the claim has been filed one mukesh s/o Rampal. The management AIIMS and two contractors have been made parties. Those two contractors did not appear and proceeded ex parte. During the pendency the claimant filed an application u/s 11(3) of the Act for a direction to the management for production of document. That

application was allowed and the management was directed to file attested copies of the documents prayed for giving liberty to the claimant to adduce secondary evidence. As seen from the record neither the management produced the documents nor the claimant adduced secondary evidence. The claimant tendered his affidavit as WW1 and the management examined one witness as MW1. The claimant who testified as WW1 has stated that during the course of employment the salary slip was not provided and the benefits of the EPF and ESI were not extended to him. No attendance register for the work done by him was maintained nor I card was issued to him. During cross examination the witness has stated that he is working against a permanent post and the duty was being assigned by the J.E. He has made it clear that his employment was directly under the management No.1 and not under the contractor management no.2 and 3. During cross examination though he has stated that his employment was from 1st January 2009 to December 2012 as Gardner and he was working from 08.00A.M to 05.00 PM everyday till his termination in December 2012 no document or prove has been placed on record to prove the same. No other oral or documentary evidence to prove that the claimant was working in the premises of the management No.1 under its supervision and control has been filed. The claimant has thus, miserably failed to discharge the burden in showing his employment under the management No.1 and completion of 240 days in a calendar year which could have conferred temporary status on him making it obligatory on the part of the employer to comply with the provisions of section 25F of the Id Act. The management No.1 has taken a plea that the claimant was never employed by the management No.1. He might have been engaged through the contractor. The management has taken a stand that the award cannot be passed against the management. During cross examination of the management witness though several questions were put and a letter issued by the management No.1 and marked as WW1/1 was confronted, the same no way proves that the claimant was ever employed by the management and his service was illegally terminated by the management No.1. There is absolutely no evidence on record to show that there exist employer and employee relationship between the claimant and management No.1 and the service was illegally terminated. For want of proof the claim advanced by the claimant is liable to be rejected. Hence, ordered.

ORDER

The claim be and the same is dismissed and the reference is accordingly answered. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

08th August, 2022

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 868.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य, एनडीडीटीसी, एम्स, गाजियाबाद, (यूपी); मैसर्स सुपर एयरकॉन, नई दिल्ली; के.एस.एल इंटरप्राइजेज, जनकपुरी, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री सत्यम, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 83/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 30.08.2022 को प्राप्त हुआ था।

[सं. एल-42012/125/2014-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2022

S.O. 868.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 83/2015) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief, NDDTC, AIIMS, Ghaziabad, (U.P.); M/s Super Aircon, New Delhi ;K.S.L Enterprises, Janakpuri, New Delhi and Shri Satyam, worker which was received along with soft copy of the award by the Central Government on 30.08.2022.

[No. L-42012/125/2014-IR (DU)]

D.K. HIMANSHU, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
NEW DELHI.****Present:**

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 83/2015**Date of Passing Award- 08.08.2022****Between:**

Shri Satyam,
S/o Shri Chandra Bose,
At- Khadoli, Near Ambedkar Dharmshala,
Bhola Road,
Meerut (U.P)-250005.

... Workman

Versus

The Chief,
NDDTC, AIIMS,
Kamla Nehru Nagar,
Near Central Public School,
Ghaziabad, U.P.

M/s Super Aircon,
At- C-129, Pandav Nagar,
Behind Radha Krishna Temple,
New Delhi-110092.

K.S.L Enterprises,
Office At:- A-1/353,
Janakpuri, New Delhi.

...Managements

Appearances:-

Shri Arvind Kumar
(A/R)
Shri Vikrant Narayan
(A/R)

For the claimant

For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of NDDTC, AIIMS, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42012/125/2014 (IR(DU)) dated 15/09/2014 to this tribunal for adjudication to the following effect.

“Whether the action of the management of NDDTC, AIIMS Ghaziabad, its contractor- M/s Super Aircon in terminating the services of workman Shri Satya S/o Shri Chandra Boss w.e.f 21.12.2012 is legal and justified? If not, what relief the workman is entitled to?”

As per the claim statement the claimant was working in the premises of NDDTC, AIIMS Ghaziabad through the contractor M/s KSL Enterprises and his service was illegally terminated w.e.f 07.12.2012 and his wage for the months from May 2012 till the date of termination was not paid. During course of employment though he had worked continuously for a period of 240 days in a calendar year preceding to his termination and the nature of work discharged was perennial, the management No.1 never conferred temporary status on him. During course of employment the management No.1 neither gave him letter of appointment nor extended the benefits of EPF and ESI Act. The demand raise by the claimant for his legitimate dues perhaps irritated the management leading to his termination. Being aggrieved he has raised a dispute before the labour commissioner where steps for conciliation were taken. Since, the conciliation failed the appropriate government referred the matter to this tribunal. The claimant in the claim petition has thus prayed for an award to be passed directing the management No.1 to reinstate the claimant into service with back wages and to pay the arrear wage from May 2012 till the date of reinstatement.

Being noticed the management No.1 i.e. AIIMS appeared and filed WS denying the employer and employee relationship with the claimant. It has been stated that the management AIIMS is not an industry and the claimant was never employed by them. The management of AIIMS enters into the contract with different contractors for execution of the work of Gardner/ Assistant Technician etc. the contractor is paid the amount as per the contract. The engagement of the persons through the contractors terminates with the termination of the contract. At no point of time the service of the claimant was terminated by the management No.1 nor any unfair labour practice was meted to him. It has also been stated that the claimant has not stated specifically about the dates when he was inducted into the service of the management No.1 and when his service was terminated. Thus, the management has pleaded for dismissal of the claim as not maintainable. The claimant filed rejoinder reiterating stand taken.

On the rival pleading the following issues were framed for adjudication.

ISSUES

1. Whether the action of the management NDDTC, AIIMS Ghaziabad and its contractor M/s Super Aircon is legitimating the service of workman Shri Satyam w.e.f 21.12.2012 is legal and justified.
2. If Not, what relief the workman is entitled?

The claimant testified himself as WW1 and relied upon the one document marked as WW1/1 which is the complaint filed before the Labour Commissioner. On behalf of the management one Sanjay Kumar Jain the Assistant Engineer Civil was examined as MW1. Both the witnesses were examined at length.

FINDING

The reference has been received for adjudication to the effect if the termination of service of one Rampal is legal and justified. But the claim has been filed one Mukesh s/o Rampal. The management AIIMS and two contractors have been made parties. Those two contractors did not appear and proceeded ex parte. During the pendency the claimant filed an application u/s 11(3) of the Act for a direction to the management for production of document. That application was allowed and the management was directed to file attested copies of the documents prayed for giving liberty to the claimant to adduce secondary evidence. As seen from the record neither the management produced the documents nor the claimant adduced secondary evidence. The claimant tendered his affidavit as WW1 and the management examined one witness as MW1. The claimant who testified as WW1 has stated that during the course of employment the salary slip was not provided and the benefits of the EPF and ESI were not extended to him. No attendance register for the work done by him was maintained nor I card was issued to him. During cross examination the witness has stated that he is working against a permanent post and the duty was being assigned by the J.E. He has made it clear that his employment was directly under the management No.1 and not under the contractor management no.2 and 3. During cross examination though he has stated that his employment was from 1st January 2009 to December 2012 as Gardner and he was working from 08.00A.M to 05.00 PM everyday till his termination in December 2012 no document or prove has been placed on record to prove the same. No other oral or documentary evidence to prove that the claimant was working in the premises of the management No.1 under its supervision and control has been filed. The claimant has thus, miserably failed to discharge the burden in showing his employment under the management No.1 and completion of 240 days in a calendar year which could have conferred temporary status on him making it obligatory on the part of the employer to comply with the provisions of section 25F of the Id Act. The management No.1 has taken a plea that the claimant was never employed by the management No.1. He might have been engaged through the contractor. The management has taken a stand that the award cannot be passed against the management. During cross examination of the management witness though several questions were put and a letter issued by the management No.1 and marked as WW1/1 was confronted, the same no way proves that the claimant was ever employed by the management and his service was illegally terminated by the management No.1. There is absolutely no evidence on record to show that there exist employer and employee relationship between the claimant and management No.1 and the service was illegally terminated. For want of proof the claim advanced by the claimant is liable to be rejected. Hence, ordered.

ORDER

The claim be and the same is dismissed and the reference is accordingly answered. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

08th August, 2022

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 869.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आयुक्त, दिल्ली नगर निगम (दक्षिण), दिल्ली, के प्रबंधन के संबंध में नियोजकों और श्री सत्य देव, कामगार, के द्वारा महासचिव एमसीडी जनरल मजदूर यूनियन, नई दिल्ली के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट (संदर्भ संख्या 77/2013) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 04.08.2022 को प्राप्त हुआ था।

[सं. एल -42011/28/2013-आईआर(डीयू)]

डी.के.हिमांशु, अवसर सचिव

New Delhi, the 19th September, 2022

S.O. 869.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 77/2013) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Commissioner, Municipal Corporation of Delhi (South), Delhi, and Shri Satya Dev, Worker, Through MCD General Mazdoor Union, New Delhi, which was received along with soft copy of the award by the Central Government on 04.08.2022.

[No. L-42011/28/2013-IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 77/2013
Date of Passing Award- 29.07.2022

Between :

Shri Satya Dev,
S/o Late Bhagwan Sahai,
C/o Through MCD General Mazdoor Union,
Room No.95, Barracks No. 1/10, Jam Nagar House,
Shahjahan Road,
New Delhi-

... Workman

Versus

The Commissioner,
Municipal Corporation of Delhi (South)
9th Floor, Civic Centre, Minto Road,
Delhi-110002.

....Management

Appearances:-

Shri B.K Prasad

For the claimant

(A/R)

Shri Rajiv Kumar Bhardwaj

For the Management

(A/R)

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Municipal Corporation of Delhi (South), and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42011/28/2013 (IR(DU)) dated 10/07/2013 to this tribunal for adjudication to the following effect.

“Whether the action of the management of MCD Delhi in not granting pay scale of Rs. 3050-4590 w.e.f 01.01.1998 and revised from time to time alongwith all consequential benefits to workman Shri Satya Dev S/o Shri Bhagwan Sahai Officiating Chaudhary w.e.f 01.01.1998 is fair and justified? What relief the workman is entitled to?”

This is a reference received from the appropriate government for adjudication if the denial by MCD in not granting the pay scale at the rate of 3050-4590 to the claimant i.e. 01.01.1998 for the post of Garden chaudary is fair and justify.

As per the claim statement the claimant has joined the management as a Mali in the year 18th September 1991 as Mali on daily wage basis in the pay scale of 750- 940. He was allotted the work of Garden Chaudhary i.e. 1998 by the competent authority of Horticulture Department and was posted under Green Park, South Zone of MCD Delhi. Though he is working in the said post of Garden Chaudhary from 1.1.1998 the management has denied him the pay scale of Garden Chaudhary at the rate of 3050-4590 from that date. His current salary is Rs. 2550-3200 for the post of Mali. The post of Mali comes under unskilled category whereas the post of Chaudhary is the skilled category under Group C of the employment. Repeated demand made by the claimant for grant of proper pay scale as has been done in the case of Jai Chand vs. MCD and MCD vs. Sultan Singh were not considered. Having no other efficacious remedy the claimant approach the Labour Commissioner through the General Mazdoor Union where a conciliation was taken up. But for the adamant attitude of the management conciliation failed and the matter has been referred for adjudication. In the claim petition the claimant has prayed that a direction be given to the management to pay him the scale of Garden Chaudhary i.e. 1998 i.e the date he started officiating in the post of Garden Chaudhary in the pay scale of 3050-4590.

The management when noticed appeared and filed the written statement. The main challenge of the management is that the present dispute cannot be termed as Industrial Dispute since, the same has not been espoused by the union having the majority no. of members. The other challenge is that the claimant had never performed the duty of Garden Chaudhary and no order to that effect was ever issued by the competent authority of the management. However the management has admitted that the claimant was appointed on daily wage basis in the year 1990 as Mali and later on he was regularized on the same post in the pay scale of 750-940 (pre revised). There is a prescribe process for promotion to the post of Garden Chaudhary and it is so done when there is a vacancy in the sanctioned post. The said promotion is not automatic but subject to having requisite qualification and qualifying the trade test conducted by the department. The claimant had never qualified the said trade test and the claim is based upon misconceived facts. Thereby the management has prayed for dismissal of the claim petition.

On these rival pleadings the following issues are framed for adjudication.

ISSUES

1. Whether the action of the management MCD Delhi in not granting pay scale of 3050-4590 w.e.f 1.1 1998 and revised the same from time to time with consequential benefit to the workman as the officiating Garden Chaudhary is justified and what would be the effect?
2. To what relief the workman is entitled to.

During the hearing the claimant testified as WW1 and exhibited two documents and marked as WW1/1 and WW1/2. The said documents include the office order by which the claimant was ordered to act as the officiating Garden Chaudhary w.e.f 01.01.1998. the other document exhibited by the claimant is the order dated 04.06.2013 issued by the Director Horticulture SDMC wherein all the deputy Director Horticulture were directed to verify, examine the claim of the applicant regarding discharge of duty in the higher post i.e. Garden Chaudhary and on verification if the claim is found to be genuine wage equal to the pay attached to the post they actually worked be paid to them. Besides examining himself the claimant has also examined the President of the MCD General Mazdoor Union as WW2 this witness proves three documents marked as WW2/1 to WW2/3. These documents have been exhibited to disprove the allegation of the management that the proceeding is not maintainable for want of espousal. Besides adducing oral and documentary evidence through its witnesses the claimant has confronted several documents to the witness examined by the management. On behalf of the management the Assistant Director Horticulture testified as MW1. He also proved several documents marked as MW1/1 to MW1/2 disprove the stand of the claimant.

At the outset of the argument the Ld. A/R for the claimant submitted that the law is well settled that equal remuneration should be paid for equal nature of work and denial of the same amounts to unfair labour practice. Relying on the judgments of the Hon'ble High Court of Delhi in the case of MCD vs. Sultan Singh decided in WPC NO. 7947 of 2010 which was later on upheld in the Hon'ble Supreme Court he submitted that the division Bench of the Hon'ble High Court have held that the list issued by Zonal Horticulture Department of MCD are the list issued by the competent authority and the persons whose name appear in the said list are entitled to the pay attached to the post in which they are working as the Garden Chaudhary. He thereby submitted that the name of the claimant Satya Dev since appears at serial No. 29 of the list (WW1/1) issued by the Zonal office, he is entitled for the scale attached to that post from 1.1.1998 and denial for the same amounts to unfair labour practice. This argument of the A/R for the claimant has been rebutted on the ground that the name of the claimant was never mentioned in any list of the officiating Garden Chaudhary and the document marked as WW1/1 is not a document issued by the competent authority from a zonal office of the management.

FINDINGS

ISSUE No.1 and 2

The claimant in his sworn testimony has stated that his initial appointment was in the year 1990 but he was allotted the work of Garden Chaudhary w.e.f 01.01.1998 by the Competent Officer Horticulture Department. Not only that he was deputed to the South Zone under the Green Park Area to work under the Director of Horticulture and working as such since then. But he has been denied the pay scale of Garden Chaudhary. To support his stand he has filed the document marked as WW1/1 which is an order issued by the Deputy Director Horticulture middle Zone issued on 12.08.2004 indicating the list of officiating Garden Chaudharies with reference to the date of their initial appointment and the date from which they are officiating and the area they are working. In this list at serial no. 29 the name of the claimant appears. The management has denied this document. The other document filed by the claimant is the letter dated 04.06.2013 issued by the Director of Horticulture and marked as WW1/2. By this letter the Director of Horticulture has authorized the Deputy Directors to verify and issue the list of the persons working as officiating Garden Chaudharies. Of course the order dated 4.6.2013 i.e. WW1/3 is with regard to the claimants in the case of Sultan Singh and others vs. MCD. The witness examined by the management is not none other than the Deputy Director of Horticulture. He has stated that the workman had never worked as the Garden Chaudhary being assigned the said duty. The claim advanced by him is illegal. While filing the copy of the recruitment rules the witness has stated that the workman has already been given the benefits of first ACP and second ACP and thus he is not entitled to the claim and the benefits. During cross examination this witness was confronted with the documents of the management which are the photocopies of the service book of the claimant and the office order of transfer of the claimant wherein he has been described as Mali. The claimant was cross examined at length by the management. But the witness remained firm in his stand and denied to the suggestions that he is still working as a Mali and was never ordered by the competent authority to officiate as Garden Chaudhary.

The issue whether the Malis directed by the Deputy Director Horticulture to officiate as Garden Chaudhary and the entitlement of those officiating Garden Chaudharies have been decided by the Hon'ble High Court of Delhi in the case of **MCD vs. Sultan Singh WPC No. 7947 of 2010** wherein the Hon'ble Court have held that the persons officiating when not claiming appointment to the post of Garden Chaudhary but claiming the salary attached to the post for having worked on adhoc basis in that post are entitled to the salary attached to the said post. The MCD had challenged the order of the Hon'ble High Court of Delhi in SLP NO. 20069 of 2011 before the Hon'ble Supreme Court and the same was dismissed as withdrawn. On behalf of the claimant the judgment of the Hon'ble Delhi High Court in the case of Jai Chand vs. MCD CW6514 of 2001 has been filed wherein the Hon'ble Court have disapproved the action of the management in not paying equal pay to the Garden Chaudharies officiating for taking the work from them for that post. The order of the management pursuant to the order passed in the case of Jai Chand has been filed as annexure B. thus, the claimant has categorically stated that the management is guilty of unfair Labour practice meted to the claimant for not granting the pay scale of Garden Chaudhary to him from the date he started officiating in the said post i.e. 01.01.1998. Accordingly it is held that the management is guilty of unfair labour practice and the claimant is entitled to the pay scale of 3050-4590 w.e.f 01.01.1998 and revision affected from time to time alongwith all other consequential benefits attached to the said scale w.e.f 01.01.1998. The issue is accordingly decided in the favour of the claimant. Hence, ordered.

ORDER

The reference be and the same is answered in favour of the workman. It is held that the claimant is entitled to the pay scale admissible to Garden Chaudhary with effect from 01.01.1998, revision of the same as has been done in case of the persons placed in similar footing and grant all other consequential benefits to the claimant within 3 months from the date this award would become executable. The management is also directed to pay the arrear of the differential salary to the claimant within a period of further 6 months from the date of publication of the award failing

which the amount accrued shall carry interest @9% from the date of accrual and till the final payment is made. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

29th July, 2022

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 870.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आयुक्त (उत्तर), उत्तरी दिल्ली नगर निगम, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री नरेश पाल और 27 अन्य के द्वारा महासचिव, एमसीडी जनरल मजदूर यूनियन, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 78/2016) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 24.08.2022 को प्राप्त हुआ था।

[सं. एल -42011/75/2016-आईआर(डीयू)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2022

S.O. 870.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 78/2016) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Commissioner (North), North Delhi Municipal Corporation, New Delhi, and Shri Naresh Pal & 27 others through MCD General Mazdoor Union, New Delhi, which was received along with soft copy of the award by the Central Government on 24.08.2022.

[F. No. L-42011/75/2016-IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 78/2016

Date of Passing Award- 17.08.2022

Between:

Shri Naresh Pal & 27 others through MCD General,
Room No. 95, Barrack No. 1/10,
Jamnagar House, Shajanhan Road,
New Delhi.

... Workman

Versus

The Commissioner (North),
North Delhi Municipal Corporation,
4th Floor, Civic Centre, Shyama Prasad Mukharjee
Marg, Minto Road,
New Delhi-110002.

... Management

Appearances:-

Shri B K Prasad

For the claimant

(A/R)

Shri Shitiji Vats

For the Management

(A/R)

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of North Delhi Municipal Corporation, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42011/75/2016 (IR(DU) dated 24/08/2016 to this tribunal for adjudication to the following effect.

“Whether the workmen as mentioned in Annexure-A are entitled to the equal pay for equal work w.e.f 01.04.1988 and onwards, and are entitled to 50% other wages of services rendered as daily wages/Muster Roll? If not what relief the workman concerned are entitled to?”

As per the narratives in claim statement, the claimants described in Annexure A of the reference have been performing their duties in the works Division of North Delhi Municipal Corporation at Rohini in different capacity such as Beldar, carpenter, Nala Beldar etc. They were initially appointed as Muster Roll Employees and their initial date of appointment were different, but within the period between 1989 to 2001. On different dates all the claimants as per Annexure A were regularized in service and working as such till date. In the year 2013 some employees of NDMC had approached the Hon'ble High Court of Delhi claiming equal pay for equal work and other benefits. The Hon'ble Division Bench of the High Court, by their order passed in LPA No 573/2013, titled as NDMC vs. Harpal Singh & Others granted equal pay for equal work to the applicants with effect from 1.4.88 onwards and also allowed the prayer for counting 50% of the period of service rendered as Muster Roll Employees for the pensionary benefits. The claimants of the present proceeding stand in same footing as that of Harpal Singh & others and thus demanded the same benefit as allowed by the Hon'ble High Court of Delhi and implemented by the management NDMC. But their representation was never considered by the management and the claimants approached the MCD General Mazdoor Union for redressal of their grievance. Steps were taken for conciliation and the same since failed, the appropriate Government referred the matter to this Tribunal for adjudication as per the terms of the reference. The claimants in this claim have prayed for a direction to the management to grant them equal pay for equal work from the date of their initial engagement in Muster Roll and for counting 50% of the period spent as Muster Roll Employee for pensionary benefits. The claimants have relied upon the judgment passed by the Hon'ble High Court of Delhi in LPA No 573/2013 and the policy circular of the Management dated 21/10/1990 and the minutes of the meeting of the senior officers of the management held on 11th June 1988.

Being noticed the management NDMC appeared and filed written statement challenging the claim on various legal and factual grounds. It has been pleaded that the claim is not maintainable for want of cause of action and the issue of equal pay for equal work is a policy decision to be taken by the Management and can be implemented after due approval of the house of NDMC. The claim of the claimant that the management took a decision to grant pay to its employees at par with the employees of CPWD is false. The other stand of the management is that NDMC being an Autonomous Body formulates its own policy with regard to the service condition of the employees and in phased manner regularizes the service of the Muster Roll Employees taking into consideration their seniority and subject to the availability of work and post. But on no occasion, the said Muster Roll Employees after their regularization, have been allowed to draw equal pay for equal work from the initial date of joining in the Muster Roll. It has also been pleaded that the Management, as per its circular dated 08/09/2000, is considering and counting 50% of the period of service in Muster Roll for pensionary benefits. Hence the management has pleaded for dismissal of the claim as not maintainable.

On the basis of the pleading the following issues were framed.

ISSUES

- 1- whether the claim is not legally tenable in view of the various objections taken by the management
- 2- in terms of reference

On behalf of the claimants Shri B K Prasad in the capacity of the president of the union representing the claimants testified as WW1 and produced few documents exhibited as Ext ww1/1 to WW1/6. These documents include the list of the workmen in respect of whom the reference has been received, the policy of CPWD dated 21/10/1990, with regard to the pay pattern of its employees, (ext ww1/2) minutes of the meeting of the senior officers of MCD adopting the pay pattern of CPWD, (ext WW1/3). Similarly on behalf of the management one of its engineer by name Jitendra Kumar testified as MW 1. He also filed three photocopies of the circulars to substantiate that the management is considering 50% of the period served as Muster Roll Employees for granting pensionary benefit to the employees after regularization of their service.

In view of the oral and documentary evidence adduced it is now to be decided whether the claimants are entitled to equal pay for equal work w.e.f the date of their initial appointment and are also entitled to calculation of 50% of the time served as the muster roll employee for calculation of their pensionary benefit. The evidence on record shows that the claimants were initially engaged as Beldar, carpenter, fitter, Nala Beldar etc and their date of initial appointment varies from 1989 to 2001. While one was appointed in the year 1980 and continued in the muster roll till 1988, some others were appointed in 1986, 1995, 1997. The detail dates of their appointment and regularization has been described in annexure-A appended to the reference received from the government. This aspect has not been disputed by the management either in the pleading or in the evidence. On behalf of the claimant a document has been filed and marked as exhibit WW1/3. This is the minutes of the weekly meeting of the senior officers of MCD wherein a decision was taken on 16.06.1988 to increase the wage of daily rated unskilled workers in accordance with the decision of the Hon'ble Supreme Court and a pay scale was also prescribed. In the said meeting it was also decided that the equal pay for equal work shall be extended following the pay pattern of CPWD and in compliance of the direction of the Hon'ble Supreme Court.

The Hon'ble Supreme Court in the case of **Surender Singh vs. Engineer in Chief CPWD (ATR 1986 SC Page 1976)** decided on 17.01.1986 while dealing with the question of equal pay for equal work in respect of the daily rated workers performing the same duty as performed by their regular counter parts held that there should be equal pay for equal work of equal value. The court observed that it makes no difference whether such workmen are employed against sanctioned post or not so long as they are performing the same duties. Hence, they must receive same salary and condition of service at par with the regular employees discharging the same nature of work. A similar view was also taken by the Hon'ble Supreme Court in the case of **Randhir Singh vs. Union of India (1982)1 SCC 618** wherein the Hon'ble Apex Court came to hold that for discharge of equal nature of work the employees are entitled to equal pay. It doesn't matter if they are working in different departments. Again in the year 2017 the Hon'ble Apex Court in the case of **State of Punjab vs. Jagjit Singh (2017) LAB.I.C 427** while considering the concept of equal pay for equal work have observed:

“the Principle of equal pay for equal work can be extended to temporary employees though differently described as work charge, daily wage, casual, adhoc, contractual and the like. It is fallacious to determine artificial parameter to deny the fruits of labour. The employee engaged for the same work cannot be paid less than another who performs the same duties and responsibility. Such an action besides being demeaning strikes at the very foundation of human dignity. Anyone who is compelled to work on lesser wage does not do so voluntarily. He does so, to provide food and shelter to his family at the cost of self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffers immensely, if he does not accept the lesser wage. Any act of paying less wage as compared to other similarly situated constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.”

The matter came up for consideration before the Hon'ble High court of Delhi in the case of **NDMC vs. Harpal Singh (LPA No. 573 of 2013 decided on 27.08.2013)**. The Hon'ble High Court after considering the pronouncements of Hon'ble Supreme Court on the subject held that the daily rated employees working in the NDMC are entitled to the wage as paid by CPWD to the daily rated workers and also held that the said workers shall be extended the benefits of 50% of the service rendered as the daily rated workers for calculation of the length of service for the purpose of pensionary benefit. Thus, on a mindful reading and careful analyses of the above said judgments it appears that the Hon'ble Apex Court as well as the Hon'ble High Court of Delhi have taken a clear view and given a direction for giving the wage of the daily rated workers at par with the said workers of CPWD and to count 50% of their service rendered as daily wagers for computing the length of service to grant pensionary benefit. The document filed by the claimant shows that a decision to that effect was taken by MCD.

The Ld. A/R for the management during course of argument pointed out that NDMC is an autonomous body and no decision has been taken for grant of equal pay for equal work at par with the workers of CPWD. This argument of the management is not accepted in view of the pronouncement of the apex court and the decision taken by the MCD. It is worth mentioning here that the management has partly implemented the order of the Apex Court which is evident from the circulars filed by the management witness and marked as A, B, C being the photocopies. These documents shows that instructions were issued by the MCD to All Additional Commissioner and Heads of the department to count 50% service of the daily wager for pensionary benefit following the instruction issued by the Central Government. Not only that by another circular dated 04.04.2012 marked as B the MCD had also issued a instruction to its officers to scrupulously follow the circular dated 08.09.2000 for calculating 50% of the service rendered by the daily wager for grant of pensionary benefit. The oral evidence of MW1 also supports this view. Thus, it is clear from the above oral and documentary evidence that the management has accepted 50% of the daily wage service for extending the pensionary benefits. Now, the question remains whether the claimants are entitled to equal pay for equal work and from which date? It is the argument of the Ld. A/R for the claimants that the said benefit shall be allowed to them w.e.f their initial date of appointment and after regularization. But the management took strong

objection and argued that the same has never be allowed by NDMC in respect of any of its employees. In the case of Harpal Singh referred supra the claimants were granted equal pay for equal work w.e.f 01.04.1988 i.e. from the date of their initial appointment. It is not understood why there would be deviation in the case of the present claimants. From the facts and the evidence available on record it is clear that the management has already increased the wage of its staff from the date of their initial appointment as per the verdict of the Apex Court. The claimants of this proceeding stand in the same footing with that of the workers who have already been granted the said benefit. Hence it held that the wage of the claimants of this proceeding are to be calculated in the manner given in exhibit WW1/3 i.e. the observation made in the minutes of the weekly meeting of the senior officers from the date of their initial appointment as mentioned in annexure A to the reference received from the appropriate government. Since the management has already admitted that 50% of the service rendered as daily rated work are being taken into consideration for grant of pensionary benefits, no specific direction need to be issued presuming that the said period rendered by the claimants shall be considered for extending pensionary benefit to them. Hence, ordered.

ORDER

The reference be and the same is answered in favour of the claimants. It is held that claimants are entitled to equal pay at par with their regular counter parts on the Principle of equal pay for equal work as stated in resolution dated 16.06.1988 marked as WW1/3 from the date of their initial engagement as mentioned in annexure-A of the reference and shall also be granted the pensionary benefit taking into consideration 50% of the period of service rendered as daily wager. The management is directed to fix the pay of the claimants as stated above within 3 months from the date of publication of the award and release the arrear within 4 months from the date of publication of the award failing which the amount so accrued shall carry interest @9% per annum from the date of accrual and till the final payment is made. The list of the claimants to whom the benefits shall be granted is annexed here with this award. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

LIST OF THE WORKMEN

S.No.	Name	Father's name/Husband's name	Designation	Date of Employment on Muster Roll	Date of Resignation
1.	Naresh Pal	Shri Kamal Singh	Beldar	15.11.1995 to 31.03.2003	01.04.2003
2.	Ashok Singh	Sube Singh	Beldar	15.9.1989 to 31.03.1995	01.04.1995
3.	Jai Prakash	Amir Singh	Beldar	09.03.1990 to 31.03.1995	01.04.1995
4.	Satbir	Gayashi Ram	Nalla Beldar	January 2001 to 31.03.2006	01.04.2006
5.	Ram Niwas	Ujjala Ram	Beldar	15.9.1989 to 31.03.1995	01.04.1995
6.	Sri Kishan	Chandu Lal	Beldar	15.9.1989 to 31.03.1995	01.04.1995
7.	Shashi Singh	Kedar Singh	Beldar	31.10.1995 to 31.03.2003	01.04.2003
8.	Ram Bhagat	Om prakash	Beldar	15.09.1989 to 31.03.1995	01.04.1995
9.	Naresh Kumar	Sat Pal	Beldar	April- May 1995 to 31.03.2003	01.04.2003
10.	Hari kishan	Dalip Singh	Beldar	May 1985 to 31.03.1990	01.04.1990
11.	Ajay Kumar	Ram Prakash	Beldar	15.09.1989 to 31.03.1995	01.04.1995
12.	Sataywan	Rati Ram	Beldar	20.10.1994 to 31.03.2003	01.04.2003
13.	Kusum Verma	Late Rambaby	Beldar	01.01.1996 to	01.04.2003

			(Collie)	31.03.2003	
14.	Balwan Singh	Mahavir Singh	Beldar	July 1995 to 31.03.2003	01.04.2003
15.	Bachchan Singh	Bin Narain	Beldar	May 1995 to 31.03.2003	01.04.2003
16.	Naresh	Raghuveera	Nalla Beldar	January 2001 to 31.03.2006	01.04.2006
17.	Hawa Singh	Daya Chand	Nalla Beldar	February 1990 to 31.03.1995	01.04.1995
18.	Neeraj Kumar	Parveen Kumar	Nalla Beldar	January 2002 to 31.03.2006	01.04.2006
19.	Desh Raj	Kapoor Singh	Beldar	01.01.1982 to 29.01.1985	30.01.1985
20.	Bijender Singh	Raj Pal singh	Beldar	15.09.1995 to 31.03.2003	01.04.2003
21.	Mukesh Kumar	Phool singh	Beldar	May 1992 to 31.03.2000	01.04.2000
22.	Devender Singh Bisht	Late Alam singh Bisht	Beldar	15.01.1994 to 31.03.2004	01.04.2000
23.	Rampal	Bhoop singh	Beldar	06.09.1983 to 31.03.1989	01.04.1989
24.	Rakesh	Ram Kishan	Beldar	18.06.1983 to 19.09.1989	20.09.1989
25.	Joot Singh	Late Sundar Singh	Beldar	01.03.1985 to 31.03.1990	01.04.1990
26.	Manjeet Singh	Desh Raj	Painter	14.04.1995 to 31.03.2003	01.04.2003
27.	Sukhbir Singh	Ramu	Beldar	01.04.1985 to 31.03.1990	01.04.1990
28.	Ramkalam	Sadhu Ram	Beldar	10.03.1987 to 31.03.1999	01.04.1999

The reference is accordingly answered.

Dictated & Corrected by me.

17th August, 2022

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 871.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य, एनडीडीटीसी, एम्स, गाजियाबाद, (यूपी); मैसर्स सुपर एयरकॉन, नई दिल्ली; के.एस.एल इंटरप्राइजेज, जनकपुरी, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री नरेंद्र, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 82/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 24.08.2022 को प्राप्त हुआ था।

[सं. एल -42012/126/2014-आईआर(डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 19th September, 2022

S.O. 871.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 82/2015) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief, NDDTC, AIIMS, Ghaziabad, (U.P.);M/s Super Aircon, New Delhi ;K.S.L Enterprises, Janakpuri, New Delhi and Shri Narendra, worker which was received along with soft copy of the award by the Central Government on 24.08.2022.

[No. L-42012/126/2014-IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
NEW DELHI**

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 82/2015

Date of Passing Award- 08.08.2022

Between:

Shri Narendra,
S/o Shri Narayan,
At:- Vill & PO- Panchali, Mohalla- Baghpat Road,
Meerut (U.P)-250005.

...Workman

Versus

1. The Chief,
NDDTC, AIIMS,
Kamla Nehru Nagar,
Near Central Public School,
Ghaziabad, U.P.
2. M/s Super Aircon,
At- C-129, Pandav Nagar,
Behind Radha Krishna Temple,
New Delhi-110092.
3. K.S.L Enterprises,
Office At:- A-1/353,
Janakpuri, New Delhi.

...Managements

Appearances:-

Shri Arvind Kumar
(A/R)

For the claimant

Shri Vikrant Narayan
(A/R)

For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of NDDTC, AIIMS, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42012/126/2014 (IR(DU)) dated 15/09/2014 to this tribunal for adjudication to the following effect.

“Whether the action of the management of NDDTC, AIIMS Ghaziabad, its contractor in terminating the services of workman Shri Narendra S/o Shri Narayan w.e.f 17.12.2012 is legal and justified? If not, what relief the workman is entitled to?”

As per the claim statement the claimant was working in the premises of NDDTC, AIIMS Ghaziabad through the contractor M/s KSL Enterprises and his service was illegally terminated w.e.f 07.12.2012 and his wage for the months from May 2012 till the date of termination was not paid. During course of employment though he had worked continuously for a period of 240 days in a calendar year preceding to his termination and the nature of work discharged was perennial, the management No.1 never conferred temporary status on him. During course of employment the management No.1 neither gave him letter of appointment nor extended the benefits of EPF and ESI Act. The demand raise by the claimant for his legitimate dues perhaps irritated the management leading to his termination. Being aggrieved he has raised a dispute before the labour commissioner where steps for conciliation were taken. Since, the conciliation failed the appropriate government referred the matter to this tribunal. The claimant in the claim petition has thus prayed for an award to be passed directing the management No.1 to reinstate the claimant into service with back wages and to pay the arrear wage from May 2012 till the date of reinstatement.

Being noticed the management No.1 i.e. AIIMS appeared and filed WS denying the employer and employee relationship with the claimant. It has been stated that the management AIIMS is not an industry and the claimant was never employed by them. The management of AIIMS enters into the contract with different contractors for execution of the work of Gardner/ Assistant Technician etc. the contractor is paid the amount as per the contract. The engagement of the persons through the contractors terminates with the termination of the contract. At no point of time the service of the claimant was terminated by the management No.1 nor any unfair labour practice was meted to him. It has also been stated that the claimant has not stated specifically about the dates when he was inducted into the service of the management No.1 and when his service was terminated. Thus, the management has pleaded for dismissal of the claim as not maintainable. The claimant filed rejoinder reiterating stand taken.

On the rival pleading the following issues were framed for adjudication.

ISSUES

1. Whether the action of the management NDDTC, AIIMS Ghaziabad and its contractor is terminating the service of workman Shri Narendra w.e.f 17.12.2012 is legal and justified.
2. If Not, what relief the workman is entitled?

The claimant testified himself as WW1 and relied upon the one document marked as WW1/1 which is the complaint filed before the Labour Commissioner. On behalf of the management one Sanjay Kumar Jain the Assistant Engineer Civil was examined as MW1. Both the witnesses were examined at length.

FINDING

The reference has been received for adjudication to the effect if the termination of service of one Rampal is legal and justified. But the claim has been filed one mukesh s/o Rampal. The management AIIMS and two contractors have been made parties. Those two contractors did not appear and proceeded ex parte. During the pendency the claimant filed an application u/s 11(3) of the Act for a direction to the management for production of document. That application was allowed and the management was directed to file attested copies of the documents prayed for giving liberty to the claimant to adduce secondary evidence. As seen from the record neither the management produced the documents nor the claimant adduced secondary evidence. The claimant tendered his affidavit as WW1 and the management examined one witness as MW1. The claimant who testified as WW1 has stated that during the course of employment the salary slip was not provided and the benefits of the EPF and ESI were not extended to him. No attendance register for the work done by him was maintained nor I card was issued to him. During cross examination the witness has stated that he is working against a permanent post and the duty was being assigned by the J.E. He has made it clear that his employment was directly under the management No.1 and not under the contractor management no.2 and 3. During cross examination though he has stated that his employment was from 1st January 2009 to December 2012 as Gardner and he was working from 08.00A.M to 05.00 PM everyday till his termination in December 2012 no document or prove has been placed on record to prove the same. No other oral or documentary evidence to prove that the claimant was working in the premises of the management No.1 under its supervision and control has been filed. The claimant has thus, miserably failed to discharge the burden in showing his employment under the management No.1 and completion of 240 days in a calendar year which could have conferred temporary status on him making it obligatory on the part of the employer to comply with the provisions of section 25F of the Id Act. The management No.1 has taken a plea that the claimant was never employed by the management No.1. He might have been engaged through the contractor. The management has taken a stand that the award cannot be passed against the management. During cross examination of the management witness though several questions were put and a letter issued by the management No.1 and marked as WW1/1 was confronted, the same no way proves that the claimant was ever employed by the management and his service was illegally terminated by the management No.1. There is absolutely no evidence on record to show that there exist employer and employee relationship between the

claimant and management No.1 and the service was illegally terminated. For want of proof the claim advanced by the claimant is liable to be rejected. Hence, ordered.

ORDER

The claim be and the same is dismissed and the reference is accordingly answered. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

08th August, 2022

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 872.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आयुक्त, दिल्ली नगर निगम (उत्तरी), दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री विजय पाल, कामगार, के द्वारा दिल्ली उद्यान कर्मचारी संघर्ष संघ, नई दिल्ली के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- 2 नई दिल्ली पंचाट (संदर्भ संख्या 142/2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 04.08.2022 को प्राप्त हुआ था।

[सं. एल -42011/93/2020-आईआर(डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 19th September, 2022

S.O. 872.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 142/2020) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Commissioner, North Delhi Municipal Corporation, Delhi, and Shri Vijay Pal, Worker, Through Delhi Udhyan Karamchhari Sangarsh Union, New Delhi, which was received along with soft copy of the award by the Central Government on 04.08.2022.

[No. L-42011/93/2020-IR (DU)]

D.K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT-II, NEW DELHI

Present: Smt. PRANITA MOHANTY

ID.NO.142/2020

Shri Vijay Pal S/o Saradre Singh,
Rept. By Delhi Udhyan Karamchhari Sangarsh Union,
B-40 , DDA Flat, Bulward Road, Delhi-110054

...Workman

Versus

North Delhi Municipal Corporation,
Through its commissioner, Civic Centre,
New Delhi.

...Management

AWARD

In the present case, a reference was received from the appropriate Government vide reference no. L-42011/93/2020 (IR(DU)) dated 21/09/2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

“Whether the worker Sh. Vijay Pal S/o Sardare Singh represented through Delhi Udhyan Karamchari Sangarh union vide letter dated 21.03.2017 against the management of North Delhi Municipal Corporation, is entitled to pay and allowances of the post of driver and if yes, to what relief is he entitled and what direction are necessary in this respect. ?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

PRANITA MOHANTY Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 873—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दिल्ली मेट्रो रेल कॉर्पोरेशन लिमिटेड, नई दिल्ली; टीएफएस कॉर्पोरेशन सॉल्यूशन, नई दिल्ली, के प्रबंधन के संबंध में नियोजकों और श्रीमती सलमा खातोन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- 2 नई दिल्ली पंचाट (संदर्भ संख्या 263/2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.09.2022 को प्राप्त हुआ था।

[सं. एल -42025/07/2022-23-आईआर(डीयू)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2022

S.O. 873.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 263/2019) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Delhi Metro Rail Corporation Ltd., New Delhi; TFS Corporation Solution, New Delhi, and Smt. Salma Khaton, worker which was received along with soft copy of the award by the Central Government on 07.09.2022

[No. L-42025/07/2022-23-IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 263/2019

Date of Passing Award- 21.08.2022

Between:

Smt. Salma Khaton,
W/o Mohd. Hussain,
Through General Mazdoor Union,
Office: T-43, Karampura, New Delhi-110015.

... Workman

Versus

1. Delhi Metro Rail Corporation Ltd.,
Metro Bhawan, Barakhamba Lane, Barakhamba,
Cannought Place, New Delhi-110001.
2. TFS Corporation Solution,
C-367, 2nd Floor Palam Extn. Ramfal Chowk,
Harish Chandra Mathur Lane,
Sector-07, Dwarka, New Delhi-11077.

...Managements

Appearances:-

Shri Yogesh Kumar
(A/R)

For the claimant

Shri Gulab Kumar Jha
(A/R)

For the Management

AWARD

The matter came up for conciliation before the bench of National Lok Adalat today. The parties are present. One Yogesh Kumar the working secretary of General Mazdoor Union representing the claimant gave a statement that the claimant has taken full and final payment towards the claim and by cheque dated 20.07.2022 an amount of Rs. 30000/- has been received by her. A photocopy of the cheque has been placed on record for reference. On behalf of the management a statement of the Bank has been filed which shows that the said amount has been debited from the account of the management and credited to the account of the claimant Suman on 25.07.2022. In view of the compromise affected between the parties the matter stands disposed of during Lok Adalat on full satisfaction. The case is accordingly decided in favour of the claimant. Record be consign as per law.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2022

का.आ. 874.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दिल्ली मेट्रो रेल कॉर्पोरेशन लिमिटेड, नई दिल्ली; टीएफएस कॉर्पोरेशन सॉल्यूशन, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्रीमती सुमन, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 264/2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.09.2022 को प्राप्त हुआ था।

[सं. एल -42025/07/2022-24-आईआर(डीयू)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2022

S.O. 874.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 264/2019) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Delhi Metro Rail Corporation Ltd., New Delhi; TFS Corporation Solution, New Delhi, and Smt. Suman, worker which was received along with soft copy of the award by the Central Government on 07.09.2022.

[F. No. L-42025/07/2022-24-IR (DU)]

D.K.HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
NEW DELHI.

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 264/2019

Date of Passing Award- 21.08.2022

Between:

Smt. Suman,
W/o Shri Jagdish,
Through General Mazdoor Union,
Office: T-43, Karampura, New Delhi-110015.

... Workman

Versus

1. Delhi Metro Rail Corporation Ltd.,
Metro Bhawan, Barakhamba Lane, Barakhamba,
Cannaught Place, New Delhi-110001.
2. TFS Corporation Solution,
C-367, 2nd Floor Palam Extn. Ramfal Chowk,
Harish Chandra Mathur Lane,
Sector-07, Dwarka, New Delhi-11077.

... Managements

Appearances:-

Shri Yogesh Kumar
(A/R)
Shri Gulab Kumar Jha
(A/R)

For the claimant

For the Management

AWARD

The matter came up for conciliation before the bench of National Lok Adalat today. The parties are present. One Yogesh Kumar the working secretary of General Mazdoor Union representing the claimant gave a statement that the claimant has taken full and final payment towards the claim and by cheque dated 20.07.2022 an amount of Rs. 30000/- has been received by her. A photocopy of the cheque has been placed on record for reference. On behalf of the management a statement of the Bank has been filed which shows that the said amount has been debited from the account of the management and credited to the account of the claimant Suman on 25.07.2022. In view of the compromise affected between the parties the matter stands disposed of during Lok Adalat on full satisfaction. The case is accordingly decided in favour of the claimant. Record be consigned as per law.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2022

का.आ. 875.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह-श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 91/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/09/2022 को प्राप्त हुआ था।

[सं. एल-20012/53/2012-आईआर (सी.एम-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 21st September, 2022

S.O. 875.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.91/2012) of the Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 09/09/2022.

[No. L-20012/53/2012 – IR (CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT

Dr.S.K.Thakur,

Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

REFERENCE NO 91 OF 2012.

PARTIES:

Sri Ram Chandra Paswan,

S/o Late Sunder Paswan,

Vill:Nadipur Kujama,

At/PO: Lodna, Dhanbad .828131.

Vs.

The General Manager,

Lodna Area of M/s BCCL.

PO: Khas Jeenagora, Dhanbad.-828115,

Order No. L-20012/53/2012-IR (CM-I) dt 04.12.2012

On behalf of the workman/Union : Workman Self

On behalf of the Management : Mr.D.K.Verma., Ld. Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 26th April, 2022

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/53/2012-IR (CM-I) dt. 04.12.2012.

SCHEDULE

“Whether action of the Management of Bagdigi Colliery of M/s BCCL in dismissing Sri Ram Chandra Paswan from the services of the Company vide order dated 30/31.01.2006 is legal and justified? To what relief is the workman concerned entitled?”

1. On receipt of the Order No. L-20012/53/2012-IR (CM-I) dt.04.12.2012 the reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, it was registered as Reference case No. 91 of 2012 on 19.12.2012. Upon receipt of the notice and written statement of the petitioner-workman, the Respondent appeared before the Tribunal and filed respective claim. With the same the matter went ahead and finally fixed on final argument since 14.08.2015 on several dates .After concluding hearing by both the contenders the matter stands reserved on 02.09.2021 to answer the reference.

2. As per the statement filed by the workman the background fact of the present case is that the petitioner/workman was removed from service over concealment of his caste. Subsequently and consequently reference of the Industrial Dispute before the Appropriate Authority carrying Reference No. 41 of 1995 which was adjudicated under the Reference before this Tribunal earlier. On hearing and adducing the evidence by both the rival parties this Tribunal passed Award in favour of workman's reinstatement with 40 % back wages since the date of his removal from service of the management of M/s BCCL .Though the OP/Management in pursuant of the said order arising out of Ref. No. 41 of 1995 reinstated the workman concerned but upheld 40% back wages even after

the Award . This Court had also granted liberty to the Management to enquire about correctness of the particulars furnished in the said Attestation Form by the workman before entering into the service. The O.P./Management without going into the bottom of the facts ascertaining veracity of caste so furnished by the workman in his attestation form and other particulars the Management once again dismissed the workman over the same charge . Due to non-observance of the Court's order in respect of Ref. No. 41 of 1995, and being aggrieved with Management's failure to clear the back wages to the extent of 40% as Awarded by the Tribunal, the workman filed petition before the Asstt. Labour Commissioner (C) seeking therein direction to Management to act in accordance of the law and, upon failure for any conciliation of filing of such prayer dated 16.05.2011 by the workman has given rise to Reference of Industrial Dispute bearing No. 91/2012 arisen out of the Award passed in Reference No. 41 of 1995

3 . The O.P./Management contested the case on merit by filing written statement denying the material allegation in the claim as well as allegation of the petitioner with the narrative as put forth by them as under

- i) The workman was appointed as M/Loader in temporary capacity in Group V-A under Schedule Caste/Schedule Tribe Quota for a period of three months subject to verification of his character and antecedent and being found Medically fit .
- ii) The OP/management received complaint from Police that the workman concerned does not belong to Schedule Caste rather he was working as Ram Chandar Lohar as Chowkidar at Sudamdih` Police Station before getting his employment in BCCL.
- iii) After hearing the Tribunal passed the award to reinstate the workman in the service of the Company with immediate effect. As regard continuity of service and other benefits including back wages to the extent of 40 % the Management holds back will be able disburseable to the workman from the date of dismissal subject the workman himself proves the particulars furnished in the Attestation Form are not false and incorrect .The liberty to the Management to hold domestic enquiry afresh against the workman to prove the charges , if any, over correctness of particulars furnished in the Attestation form by the workman .
- iv) The workman was made to face the domestic enquiry in the line of the natural justice in accordance with law but he failed to appear.
- v) So the Enquiry officer conducting ex-parte of enquiry held the workman guilty of the charges leveled against him
- vi) Finally, the Disciplinary Authority dismissed the workman from services of the company after completing due process in the line of natural justice.

4. The OP/management was given chance to adduce evidence on their part. Accordingly the OP/management filed following documents to prove from the side of the Management

- i) Letter dt. 22.01.2005 of the Project Officer to allow the workman to resume duty
- ii) Copy of Charge sheet dt.5.03.2005
- iii) Reply of the charge sheet dt. 6.03.2015
- iv) Office Order for appointment of enquiry officer.
- v) Notices in Seven Sheets.
- vi) Letter of workman in response to notice of enquiry
- vii) Enquiry proceeding
- viii) Enquiry Report
- ix) Second Show Cause Notice
- x) Order of dismissal

5 It transpired from record that the Tribunal vide order dt. 14.07.2015 over the point of fairness of the domestic enquiry , in its preliminary report held the domestic enquiry as fair, proper and in accordance with principle of natural justice. It was also further stated that having received the consecutive notices of enquiry dt.02.07.2005, 02.08.2005, 03.09.2005 and 24.09.2005 (Extt. M.3/3-6), he evaded to appear to face the accusation of the enquiry for his defence. This shows full opportunity was given for his defence in accordance with the principle of natural justice. Notably the petitioner did not dare to challenge the said enquiry also.

6. In the light of above observation and having regard to the facts and circumstances and evidence adduced by the parties, the act of the Management dismissing the workman from service by the Management of Bagdigi Colliery of

M/s BCCL vide letter dated 30.31/01 2006 did not appear malafide rather found fair and proper. The workman (Ram Chandra Paswan) did not avail legal remedial service to be granted any relief as he reportedly proved failure to establish his claim with cogent evidences/proofs. The workman did not represent himself before the said enquiry.

7. The Tribunal after careful considerations of the material on records and the facts herein stated in the present fact and circumstances that the workman's reinstatement and subsequent benefits of 40% back wages was interconnected to each other where the first the workman was duly reinstated as first step in pursuant of follow up the Award passed by the Tribunal vide dt. 18.08.2004 under Reference No. 41 of 1995 but for upheld payment of back wages, the option rests with the OP/Management to conduct enquiry to verify the particulars and antecedents entered before his entry into service. On this score the workman was not able to challenge the OP/Management rather evaded to represent in the domestic enquiry. Finally he did not take steps in the matter of come out over the charges of accusation.

8. The Tribunal holds of the opinion that the act of the OP/management in dismissing the workman Sri Ram Chandra Paswan from the services of the company vide order dt. 30/31.01.2006 after conducting fair and proper domestic enquiry is legal and justified action of the Management of Bagdigi Colliery of M/s BCCL. The workman failed to represent in the domestic enquiry despite repeated Notices nor did he challenge the said enquiry. As such the workman has not qualified to be granted relief as sought for under Reference and so no relief is awarded. .

Dr. S.K.THAKUR, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2022

का.आ. 876.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 236/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/09/2022 को प्राप्त हुआ था।

[सं. एल-20012/126/98-आई.आर (कोल-I)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 21st September, 2022

S.O. 876.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.236/1998) of the Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 09/09/2022.

[No. L-20012/126/98 – IR (C-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD.

PRESENT

Dr.S.K.Thakur,
Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

REFERENCE NO 236 OF 1998.

PARTIES:

The Secretary,
Rastriya Colliery Mazdoor Sangh,
At: Rajendra Path, Dhanbad- 826001

Vs.

The General Manager,
Govindpur Area No. III of M/s BCCL.
PO: Sonardih, Distt: Dhanbad - 826001
Order No. L-20012/126/98-IR(C-I) dt.08.12.1998

APPEARANCES :

On behalf of the workman/Union : None.
On behalf of the Management : Mr.D.K.Verma, Ld. Advocate

State : Jharkhand Industry : Coal
Dated, Dhanbad, the 26th April 2022

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their **Order No. L-20012/126/98-IR(C-I) dt.08.12.1998.**

SCHEDULE

“Whether the action of the Management of Govindpur Area No. III of M/s BCCL in denying employment any one of two Narain Jena one of whom may be real Narain Jena is legal and justified? If not, to what relief is the concerned Narain Jena is entitled?”

2. The instant case No. 236/1998 came to be registered on 30.12.1998 upon receiving Schedule of Reference from the Government of India vide Ministry Order No. L-20012/126/98-IR(C-I) dt.08.12.1998 for adjudication to this Tribunal under Sec. 10(1)(d) the Industrial Dispute Act., 1947 where in the sponsoring Union on behalf of the purported raised an Industrial Dispute against his employer M/s Govindpur Area No. III of M/s BCCL Dhanbad alleging denial of employment by the said employer and seeking relief thereon. Upon registration of the instant case, notice was issued to both the litigant parties with direction to appear and file their written statement.

3. The parties under Reference filed their respective statements (s) of the fact and list of documents, upon which the matter was set in motion and reached to the state of evidence. After adducing the evidence by the parties and thereafter the matter was advanced for hearing arguments (s) for finality. But the representation from workmanside abruptly stopped since 26.05.2006 with no progress was noticed further even after serving a fresh spell of Notice upon the Sponsoring union. As a matter of fact the Sponsoring Union /workman did nothing in the matter of taking steps as warranted of the case. The Sponsoring Union appears very causal to pursue the case with no sincerity. The Sponsoring Union's approach to this Tribunal was not appeared to be well-merited, in that having all along contested in the proceeding before the Tribunal over the issue of impersonation and finally left it in mid way cannot be looked from any angle to be said a bonafide. Keeping in view of ample opportunity granted, the Sponsoring Union/petitioners remained absent without any step and it was posted again and again, finally on 02.09.2021.

4. Records further reveal that ever since 26.05.2006, the workmanside representation was completely stopped appearing before the Tribunal in regular course even after three consecutive Notices. 02.09.2021 is the third consecutive date after a fresh initiation of the Notice served to Union/workmen. They failed to represent the case, and clearly the conduct of the claimant indicates that the Industrial Dispute has ceased and they have abandoned this case and did not show interest to go to finality. There is no cogent ground to adjourn the case suo motu. Thus the Tribunal holds that the instant Industrial Dispute being case No. 236-98 instituted on 30.12.1998 is no longer in existence between the parties and as such no relief is awarded by this Tribunal in the instant case which stands disposed of forthwith.

Dr.S.K.THAKUR, ,Presiding Officer

नई दिल्ली, 21 सितम्बर, 2022

का.आ. 877.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 132/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/09/2022 को प्राप्त हुआ था।

[सं. एल-20012/157/97-आई.आर (कोल-I)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 21st September, 2022

S.O. 877.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.132/1998) of the Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the Management of C.C.L. and their workmen, received by the Central Government on 09/09/2022.

[No. L-20012/157/97 – IR (Coal-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT

Dr.S.K.Thakur,
Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947

REFERENCE NO 132 OF 1998

PARTIES:

Sri Imtayaz Hussaini ,
Asstt. General Secretary,
Coalfield Mazdoor Union,
Ali Manjil, Bermo PO: Sunday Bazar, Distt: Bokaro -

Vs.

The Project Officer,
Argada Colliery,
Of Central Coalfield Ltd.,
PO: Argada, Distt: Hazaribagh

Order No. L-20012/157/97-IR (Coal-I) dated 22.04.1998

On behalf of the workman/Union : Mr.D.Mukherjee ,Ld. Advocate
On behalf of the Management : Mr.D.K.Verma, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 26nd April, 2022

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/157/97-IR–(Coal-I) dated 22.04.1998 .

SCHEDULE

“Whether action of the management of Argada Colliery of CCL PO: Argada, Dist: Hazaribagh in dismissing Sri B.K.Prasad, Clerk Gr. II from the services w.e.f. 05.08.1996 is justified? If not, to what relief the workman is entitled?”

2. Consequent upon receipt of the order of Reference, cognizance was taken by the Tribunal and the proceeding was initiated by issuing summons to both parties and the case record shows that both parties then entered in appearance engaging Ld. Lawyer by each of them and both side also filed respective claims and contested to the argument stage by the OP/Management only before it stands reserved for Award.

3. The fact of the case as made out by the applicant giving rise to the instant reference, may be capsulated in the following manner:’

- i) That Sri B.K.Prasad has been working as permanent workman at Argada Colliery since long with diligent and sincere service record to the satisfaction of the Management .

- ii) As some of the officers of the Organization were very much biased and prejudiced against the concerned workman and some of the Union official were planning to remove the workman from service.
- iii) The OP/management issued a charge sheet to the workman charging with securing employment fraudulently and thereby forcing the workman Dola Ram Manjhi to declare him as his Son-in-law with charges to have manufactured documents to secure the employment
- iv) Even after reply the OP/Management go ahead by constituting invalid and irregular departmental enquiry being prejudiced against the workman
- v) The Enquiry Officer conducted the enquiry in utter violation of the principle of natural justice.
- vi) That workman replied to the charge- sheet denying all the charges emphatically
- vii) That the explanation so submitted by the workman was sufficient enough till then the OP/Management constituted an invalid and irregular departmental enquiry with the enquiry officer being prejudiced and biased
- viii) That the explanation so submitted by the workman was sufficient enough till then the OP/Management constituted an invalid and irregular departmental enquiry with the enquiry officer being prejudiced and biased.
- ix) The Enquiry Office conducted the enquiry in utter violation of the principle of natural justice.
- x) The Enquiry Officer relied on statement which were taken on the back of the workman concerned without being afforded opportunity to cross examine the person and relied only those documents which was not proved by the author of the documents.
- xi) That the workman concerned was provided employment on the basis of Voluntary Resignation of Doha Ram Manjhi
- xii) That it would be pertinent to mention here earlier also Doha Ram Manjhi had applied for Voluntary Retirement Scheme for employment of Sri B.K.Prasad and the same was turned down by Area Office on the ground that there was no provision for providing employment to Son-in-law and allegedly age of the workman was not available on record. In view of the fact workman Doha Ram Manjhi was referred to Medical for determination of his age.
- xiii) So the charge against the workman was not established rather the workman was held guilty
- xiv) That based on findings of the Enquiry Officer which was perverse and not based on evidence on record, the OP/Management illegally and arbitrarily dismissed the workman concerned
- xv) So the charge against the workman was not established rather the workman was held guilty.
- xvi) That based on findings of the Enquiry Officer which was perverse and not based on evidence on record, the OP/Management illegally and arbitrarily dismissed the workman concerned.
- xvii) That against the arbitrary dismissal and illegal dismissal the workman represented but to no effect.
- xviii) That being aggrieved by the same, the petitioner raised an Industrial Dispute referred for adjudication before this Tribunal in exercise of the power conferred on the Tribunal under Sec. 10(1)(d) of the I.D.Act.,1947.

4. Per-contra counter written statement was filed by the O.P./Management denying all the materials allegations and statement made by the petitioner in his claim petition inter- alia

- i) That the workman concerned Shri Brij Kishor Prasad son of Shri Ram Sahay made false representation to the effect that he was the son-in-law of Shri Daharam Manjhi, a coal-cutter of Argada Colliery and entered into service of the Company w.e.f. 27.10.80 as his dependent son-in-law .
- ii) That upon pressuring the original workman Doha Ram Manjhi and induced him to put his LTI on some blank papers which was later turned as his application for voluntary Retirement from service and his declaration declaring petitioner Brij Kishor Prasad as his son-in-law and secured employment under the Management .
- iii) Whereas on proper police investigating it reveals that the petitioner was under pressure by the workman (B.K.Prasad) and got himself inducted to employment based on his original workman application meant for VR and subsequently declaring his Son-in-law .Though after proper investigation by the Police as well by the Company the facts came out that the complaint of Doha Ram Manjhi was correct.
- iv) That a letter was received from Shri DohaRam Manjhi Ex-workman addressed to Supdt. of Police, Dhanbad with endorsing copy to the CMD, CCL, Ranchi alleging therein that workman was inducted into the service in fraudulently with of the malafide intent describing himself as the Son-in-law of the former workman by inducing workman and managed to get his signature on Blank Paper meant for application for Voluntarily Retirement Scheme and move forwarded the High Authority for necessary action .

- v) The matter of the fact was referred to the Vigilance Department of the Company and upon completion of investigation properly the Department holds the allegation of the ex-workman Dahan Ram Manjhi was correct.
- vi) That the OP/management issued charge sheet to the workman charging him under various clauses of Standing Order for commission of various misconduct and secured illegal employment in fraudulently way.
- vii) On being found the reply by the workman not satisfactory the Management constituted a Domestic Enquiry that found the workman concerned guilty of the charges brought against him. And the Disciplinary Authority asked for his reply with ultimatum to respond within 72 hours against finding of the enquiry by sending him report of enquiry with enquiry proceedings therewith relevant documents but the workman could not reply within the stipulated time.
- viii) Finally the Disciplinary Authority applying his mind issued the letter of dismissal from service w.e.f. 05.08.1996.

5 In the rejoinder constituted as supplementary part of the written claim the O.P. denies categorically the point of the claim and the contents of the written statement as raised by the workman and reiterated its stand for entitlement of relief for granting it in the Award and vice versa by the O.P./Management.

6 The workman on his behalf filed a list therewith the of document in original with regard to his contention to be taken up at relevant point of time:

- i) Original letter written to Sri Brij Kishor Prasad being No. GM (A)/P/VR-APP/80/ARG/32037 dt. 29.10.1980 issued under the signature of the Personnel Officer (A).

7. It now stands admitted fact the workman namely Shri B.K.Prasad was in the employment of Argada Colliery of M/s CCL and had suppressed the material fact. That apart, the workman has neither pleaded nor has there been effort on his part to show that the impugned dismissal order was in violation of term of employment. On the date of hearing of the case the management of the Company examined its ex-workman Shri Daharam Manjhi as MW-I, he testified that he has only one daughter and no son nor any son-in-law namely Brij Kishor Prasad as the fact emerged out in the case. He does not know Brij Kishor Prasad who has got his employment under the O/P Management disclosing identity as Son-in-law of the Ex-workman. He was quick to depose that by exerting undue influence and pressure the said Brij Kishor Prasad (workman) compelled the ex-workman to sign on Affidavit. He further added that he never recorded his statement before he Enquiry Officer so appointed by the OP/management. The workman concerned was not his son-in-law and managed to get employment in disguise of being son-in-law of the Ex. workman unlawfully but factually it did not exist. In cross the fact the workman admitted of being forced to put his L.T.I on the affidavit to suit his vested interest.

8. Similarly in MW-2 upon hearing on merit the Management of the Company examined Talo Manjhi who asserted that he married Sani Devi, who is daughter of Daharam Manjhi, Ex-workman has no male issue, and that his daughter is my wife. But in cross he could not show any paper that he married Sani Devi about seven years back.

9. The OP/Management in a catena of decisions relied heavily upon some exemplary decisions of Apex Court in the line of their contention likewise: R. Vishwanath Pillai Vs. State of Kerala reported in 2004 SCC (L & S) 350, R.Radhakrishnan Vs. Director General of Police & Ors. AIR 2008SC 578 and Devendra Kumar vs. State of Uttaranchal and others.

10. In this sequence in the last the OP/Company produced Sani Devi as MW-3 claiming to be only one daughter of the Ex-workman Dahan Ram Manjhi whereby she admitted of the fact that her father as Daharam Manjhi who was an employee of Argada Colliery of M/s CCL but pleaded ignorant when asked of her date of birth and age. Simultaneously she further added that she does not have paper to show that she is only daughter of her father.

11. Apparently with three witnesses as examined aforementioned during the course of hearing it holds key position in ascertaining the fact that the claim of the workman is not genuine.

12. Considering all the aspects as discussed, the Tribunal has no hesitation to hold that on the basis of the evidences so examined/cross examined during the trial of the case and the materials on record that the claimant for the purpose for covering and hiding the bare fact deliberately he got the entry into the job of the Management of CCL by playing fraud upon the Competent Authority as there is hardly any scope to disbelieve the fact which all along remained unchanged. Therefore, so called action of the Management issued by the Management of Agrada Colliery of M/s CCL being found corroborating exercise of establishing the fraud what the workman had done in securing the service. It is clear indicative circumstances that it was a exercise to suppress the fact and remained in service so long as the original workman does not come out protesting against it. Thus, for the reasons aforementioned there is no merit in the pleading of the workman.

13. In the light of the above observation and having regard to the facts and circumstances and evidence adduced by the parties, the Tribunal hold of the opinion that the action of the Management of Argada Colliery of M/s

CCL in dismissing Sri B.K.P Clerk Gr. II from the services w.e.f. 05.08.1996 after holding domestic enquiry in the background of the case is justified in the eyes of law. There is no good or valid ground warranting interference by the Tribunal over the impugned order of the dismissal of the OP/Management keeping in view of the finding of the OP/Management. It is the workman concerned who committed wrong in securing the service fraudulently in the Management of M/s CCL of Argada Colliery.

14. So the reference is awarded as such that the action of the Management of Argada Colliery of M/s CCL in dismissing Sri B.K. Prasad Clerk-II is legal and justified and the workman concerned is not entitled to any relief whatsoever.

Dr. S.K.THAKUR, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2022

का.आ. 878.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण –सह-श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 34/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/09/2022 को प्राप्त हुआ था।

[सं. एल-23012/10/2019-आई.आर. (सीएम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 21st September, 2022

S.O. 878.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.34/2019) of the Central Government Industrial Tribunal-cum-Labour Court NO. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 07/09/2022.

[No. L-23012/10/2019– IR (C-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Sh. S.K. Thakur, Presiding Officer

ID No.34/2019

Registered on:-27.05.2019

Sh. Roshan Lal S/o Sh. Tulsi Ram, Village Nali Changar Po Ranikotla, Tehsil Bilaspur Distt. Bilaspur (Himachal Pradesh)175001

...Workman

Versus

1. The Chairman, Bhakra Beas Management Board, Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board, BSL Project, Sundernagar-175038.

...Respondents/Managements

AWARD

Passed On:- 25.05.2022

Central Government vide Notification No.L-23012/10/2018-IR(CM-II) dated 14.05.2019, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB in not accepting the demand of Sh. Roshan Lal S/o Sh. Tulsi Ram for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.34/2019.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

Dr. S.K.THAKUR, Presiding Officer